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CONVENTION ISSUE

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J. A. Gooch
President, International Association of Insurance Counsel
1953-1954

President's Page

MAY I take this opportunity to express my sincerest thanks to the membership and to pledge my best efforts to the end that the usefulness of this organization continue in the same ascent as under my predecessors in office. In my opinion we are faced, as an industry, with three major problems: (1) the ever-increasing cost of cases; (2) the growing tendency among governing bodies to enlarge the scope of recovery through the elimination of long established defenses; and (3) an agitation in some jurisdictions for by-passing the courts and juries and submitting disputes to administrative determination.

Your Executive Committee, for the past several years, has been studying these problems and attempting to combat them. It is a great source of comfort to know that as of this time our ranks are unified with both the Industry Executives and the Trial Lawyers thinking in the same vein. We have all grown to know each other better, and it is much easier now than before to express our views. I believe we will be able, by the close co-operation indicated, to make our efforts felt for the good of the Industry. All of us are connected with the insurance industry by choice. We believe that our industry should be allowed to run itself with a minimum of legislative and administrative control. I think we will all agree that the industry is now the backbone of our national economy, and that it is important to all citizens alike.

Those who seek to drive it out of business, either from catastrophic recoveries or through legislative and administrative action are, in my opinion, conducting a very near-sighted campaign. Your Executive Committee is working quietly to arrive at some plan and campaign for public education and for a sustained and unified drive to combat the encroachment of political bodies. You will be advised from time to time of its thoughts before its policies are put into effect.

We believe that our aims are sound and that a free industry can be maintained through this organization if we but exert the efforts and use the talents we possess.

I urge each and every one of you to suggest ways and means of maintaining the integrity of our industry, to keep it strong and in private hands, and I sincerely hope that each of you will convey such information, suggestions and ideas as may occur to you to your Executive Committee, to the end that it may be kept fully informed and know your wishes and desires in the premises.

Sincerely,

J. A. GOOCH
President

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1953-1954

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PURPOSE

The purpose of this Association shall be to bring into close contact by association and communication lawyers, barristers and solicitors who are residents of the United States of America or of any of its possessions or of any country in the Western Hemisphere, who are actively engaged wholly or partly in the practice of that branch of the law pertaining to the business of insurance in any of its phases or to Insurance Companies; to promote efficiency in that particular branch of the legal profession, and to better protect and promote the interests of Insurance Companies authorized to do business in the United States of America or in any country in the Western Hemisphere; and to encourage cordial intercourse among such lawyers, barristers and solicitors, and between them and Insurance Companies generally.

PROCEEDINGS

26th Annual Convention International Association of Insurance Counsel

CHATEAU FRONTENAC
QUEBEC, CANADA

GENERAL SESSION

JUNE 29TH, 1953

ALVIN R. CHRISTOVICH, President: Members of the Association, Ladies and Guests, I now officially convene and call in session, the 26th annual convention of your Association. On behalf of the officers of the association and your executive committees, we would like to extend our personal welcome to you. I hope that you will bear with us in the days to come. We have done our best to organize a convention that you will enjoy. There were some difficulties, it is always difficult with a crowd of this size, to see that everything is OK. In respect to registration, I understand we have something over seven hundred already registered, and I am quite sure there are a great many who have not yet had the opportunity to register. We beg your indulgence and cooperation.

PAT H. EAGER: Mr. President, Ladies and Gentlemen, Distinguished visitors: When this Association was in its early stages and which was back in medieval times, we had men like Walter Mayne and George Yancey for presidents, and which I only recall dimly because at that time I was just a mere lad and heard about it from older lawyers, but in more recent years the Association has seen fit to elect presidents of some degree of culture and refinement. I remember reading about it when I was nine years old. They presented the President with a gavel—at that time I understand it served a practical purpose. Many of the members were unruly, and the President would tap them on the cranium. As we have progressed here in the years, you gentlemen have seen fit to elect a man of some degree of culture and refinement, so this custom continues to be followed. This gavel here, presented on my behalf and on the behalf of the Association to our President, is a sign of our love and esteem for your devotion during the year 1952-1953. It is composed of two parts: a little handle and a head or hitting part. One part composes our love for you, and the other part composes our love and affection for your beloved wife. (Applause).

PRESIDENT CHRISTOVICH: Thank you very much, Pat. That is not always the way Pat talks to me on the golf course. This is another memento that I shall always cherish.

MR. CHRISTOVICH: In introducing the gentleman who is to welcome us to this great and historic City of Quebec I feel that I am introducing an old acquaintance of many of us. I get this impression from the fact that whenever I have had occasion to mention the fact that we were meeting in Quebec this year so many of my listeners would request that their warm personal greetings be extended to him. In insurance circles his name was immediately and closely identified with Quebec.

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Insurance Counsel Journal
PUBLISHED QUARTERLY BY
INTERNATIONAL ASSOCIATION OF
INSURANCE COUNSEL

GEORGE W. YANCEY, *Editor*
ELEVENTH FLOOR, COMER BUILDING
BIRMINGHAM, ALABAMA

The Journal welcomes contributions from members and friends, and publishes as many as space will permit. The articles published represent the opinions of the contributors only. Where Committee Reports have received official approval of the Executive Committee it will be so noted.

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Before becoming Superintendent of Insurance for the Province of Quebec, this gentleman lectured at the University of Montreal and thereafter gained experience in the insurance field through his association in the Actuarial Department of the Sun Life Insurance Company. In 1937 he became Superintendent of Insurance and has remained in this honored post for 17 years. His vast experience, his great knowledge of the insurance business, his charm and graciousness have endeared him to a host of friends and admirers, both in Canada and in the United States.

It gives me great pleasure to introduce to you the Honorable Georges LaFrance, Insurance Commissioner for the Province of Quebec.

Address of Welcome

HON. GEORGES LAFRANCE
Insurance Commissioner for Province of Quebec
Quebec, Canada

MR. PRESIDENT: Ladies and Gentlemen. Really, this morning I feel at ease. It is like, it is to me like a family gathering and consequently, I feel at ease, and I do not think it is necessary for me to read the text that I have so carefully prepared. I want to congratulate the legal profession this morning. I am more convinced than ever of t h e i r persuasive qualities. While waiting for the opening, I noted that there were a great number of ladies present. And gentlemen, I know that it takes a lot of persuasion to bring them with you to Quebec. Congratulations. We are very pleased to see them and I can assure you as it is my experience, I have attended a great many meetings of this kind and it is the first time that the ladies in so great a number, have consented to heighten the standard of the meeting. Congratulations.

We want to make sure that you will be pleased with your stay with us. We want to do everything we possibly can to make you happy and that you bring back with you a good souvenir. I am sure Mr. Jessop of the Chateau and his assistants will do their best, their utmost, to make your stay pleasant here, so that when you go back to your country, you will remember a tiny spot on the map of Canada which by the way is a little greater than Texas. (Applause).

Yesterday, when I was preparing my speech, an idea came to me, and I glanced at an article in Time, about Bishop Sheen. He was asked why he never wrote his speeches and his reply was: "Well, that reminds me of a story of an old Irish lady who had listened to a sermon and the priest was reading his text and the old lady was indignant. She said: "How can he expect us to remember his speech when he can't do it himself." I do hope that since I am not reading my text, you will remember my remarks.

May I, Mr. President, congratulate the legal profession for its contribution to the insurance business. All told, you have contributed to the improvement in the contracts to a great extent. May I also venture to make a suggestion to your Association. In these days when private enterprise is very often criticized, the insurance business is, of course, not immune from those criticisms, and may I suggest that insurance companies whom you represent, make statistics concerning the number of claims they settle out of court, as compared to those settled in court. That information is never available to the public, and I feel that it would be a contribution, from a social point of view, to the insurance business and the legal profession at large. I intend to bring that matter up at the next conference of our superintendents in Canada.

Now, I wish to welcome you to Quebec, and I would like to give you a little historical background of this city, so that when you walk through the streets, you will have an idea of what kind of a place it is.

This is a city, very famous for tourists. We have a very important tourist trade, and mind you, this is not you. We have not waited to develop our tourist trade for the invention of the "Model T" by Mr. Ford or Dr. Durand of General Motors. It started way back. Our ancestors discovered

Quebec around 1535. It was really founded in 1608 by Champlain, and you will see his monument just across the square from the Chateau. In 1635 we had a few visitors from abroad, who tried to establish themselves here also, but the most important tourist movement we had was in 1755, when Wolfe came with 8,000 men and he thought the place was fairly good, so that he had a battle with Montcalm and they stayed over for a few months, and they have been with us ever since.

We have a reputation of being hospitable and of course since they decided to stay with us, and after all, they were stronger than we were, so we said: "Let us make the best of it." We made compromises, we had a little bit of difficulty, but all told it was a fairly good success, and in 1812, it was the beginning of the American tourist trade. Mr. Montgomery, through Maine, came to Quebec and unfortunately it was a dark night, and he tried to climb the cliff of the Citadel, he slipped and I am told that he killed himself, so tells the pack around the Citadel.

We have, of course, great pleasure in receiving the Americans in Quebec. We think that we have something to offer them, and we feel that they should come a little more often, especially gatherings of this kind, because it helps us to understand and study friendly neighbors.

As for the City of Quebec, I am prepared to give it to you on the Spanish basis. Perhaps you know of this Spanish custom: If you go to a house and you admire a particular piece of art, and you say so to your hostess, she will say: "Oh, please take it with you," but if you are accustomed to that custom, you will reply: "Oh, thank you so much, will you please keep it for me." We are quite prepared to give you the city but on the Spanish basis, and we would like you to come more often to the City of Quebec so that you will see what use we are making of your city.

This being a bilingual province and my vocabulary being limited, you will allow me—and I am sure the lawyers will understand—to say a few words in French:

Vous etes, mesdames et messieurs, dans un endroit historique. Je crois qu'en parcourant nos rues, vous rencontrerez des doms qui sont fameux chez-vous, celui d'Iberville, DeBienville, Pere Marquette, Louis Joliette, et cetra et cetra. Ces personnes ont decouvert une grande partie de votre pays que nous avons, ou qui vous a ete cede par Napoleon lors de cette fameuse transaction qui est communnement connu sous le nom de "Louisiana Purchase."

Well, Ladies and Gentlemen, I do hope that you will be pleased with your visit here. Come more often to see us, and if we can do anything for you please let us know, and we are looking forward to your next visit, and until then, "Au revoir." (Applause).

MR. ALVIN CHRISTOVICH, President: Mr. LaFrance, thank you very much, on behalf of all of us for the delightful welcome that you have given us. All of us, I know, had looked forward to coming to Quebec, and your gracious welcome certainly was pleasant to all of us. Thank you so much.

The gentleman who will respond to the very gracious address of welcome so charmingly and sincerely extended by Mr. LaFrance certainly needs no introduction to this audience. He has been one of us for many years, both in the ranks and as a member of the executive committee. All of us who know him have a great admiration for him not only as a lawyer of outstanding ability, but as a man who has a deep and abiding interest in the welfare of our Association. I have the great pleasure to introduce Mr. Robert Hobson of Louisville, Kentucky who will respond to the address of welcome.

Response to Address of Welcome

ROBERT P. HOBSON
Louisville, Kentucky

MR. PRESIDENT, Mr. La France: I had hoped that the entire address of welcome would be in French so that no one would know what he said, or whether I had correctly responded to it but if I did understand correctly, one of the things he said, and with a very noticeable fire in his eye, was that the wolves came here in 1755 and that they are here again this morning. (Laughter).

Some years ago when we met at White Sulphur I was greatly interested when my friend, Rocky Holt, who was then governor of West Virginia, said that there was more Bluegrass in that state than in Kentucky and I expected Mr. LaFrance to say that there was more Bourbon in Quebec than in Kentucky.

What the people of Quebec are undertaking to show us today is exactly the reverse of the story of the man who took his dog which had a tail only one-half an inch long to the veterinarian and said to him: "Doctor, I want you to cut off this dog's tail." The vet was amazed and told the man that the dog had hardly any tail then and inquired as to why such a small tail should be cut off, to which the man replied: "My mother-in-law is coming to visit at my home next week and I don't want any sign of hospitality whatever." (Laughter).

Ladies and Gentlemen, I appreciate so much the kind words of hospitality that Mr. LaFrance has given to us and I am sure that all of us are going to enjoy our stay here at the Chateau and our visit in this charming, historical city. On behalf of the Association I want to say just this one word, "Thanks" to Mr. LaFrance for his gracious invitation to all of us and to assure him that we will take advantage of everything there is to see here and possibly have a little drink.

MR. CHRISTOVICH: Thanks very much, Bob, for those very well chosen remarks.

Members of the Association: In the past few years, we have adopted the custom of introducing to the old members the new members. I think that it is a fine thing to do, because in the past years many of our new members came in and were a little bit lost in the shuffle. So, we have hit upon a plan of introducing these gentlemen to you so that you might all see them now and meet them and make them feel at home, because after all, the new members of this Association will be the old members in the years to come, and the whole life of this Association depends on the man who in the years to come will guide the destinies, I hope, of this Association.

And so, I am going to ask Kenneth Cope, who is chairman of the reception committee of the new members, if he will not come forward and proceed with his program of introducing all the new members. You will recognize them of course, by the green lapels.

MR. KENNETH B. COPE: Ladies and Gentlemen of the Convention: This is one of the very important moments of this meeting and our good president has assured me that there is ample time to present our new members. It is important each new member become integrated in our Association. Each of our new members had a letter from some member of our committee already welcoming him into the Association, and in addition to that, and to the welcome extended by the President this morning, I again want to extend a most hearty welcome to each of the new members of our Association.

We also want to recognize that these new members come to us not only properly nominated and sponsored, but also approved by the various committees and by the executive committee of this Association. At the close of this meeting I am going to ask members of the committee for reception of new members to be in the rear of the room with the new members they have sponsored and I would like all members to meet the new members so that when you meet one of them with a green badge, shake his hand, see that he meets other people, help him in this convention as much as possible. One of the reasons that brings us here is this friendship, and new friendships

formed here, which will bring them to succeeding conventions. Now, I will call upon the members of our committee to present these new members.

I will ask you to withhold your applause till they have all been presented and then give them a good round of applause.

I now take pleasure in introducing to you our new members:

Charles J. Adams, of Hartford, Conn.
Walter M. Barnett, Jr., of New Orleans, La.
Sumner Canary, of Cleveland, Ohio.
John S. Carriger, of Chattanooga, Tenn.
Edwin Cassem, of Omaha, Neb.
A. R. Christovich, Jr., of New Orleans, La.
William P. Cooney, Jr., of Detroit, Mich.
Mayo A. Darling, of Concord, Mass.
C. A. DesChamps, of San Francisco, Calif.
Beverly Elliot, of Toronto, Canada.
Robert C. Ely, of St. Louis, Mo.
Merton H. Giffin, of Milwaukee, Wis.
William M. Howell, of Jacksonville, Fla.
Reese Hubbard, of Chicago, Ill.
Wyatt Jacobs, of Chicago, Ill.
Ira Lohman, of Jefferson City, Mo.
Mark Martin, of Dallas, Tex.
George M. Morrison, of New York, N. Y.
Wilbert H. Norton, of Huntington, W. Va.
James C. O'Shea, of Rome, N. Y.
William E. Pfau, Jr., of Youngstown, Ohio.
Roderick Gerard Phelan, of Toronto, Canada.
Junius L. Powell, of New York, N. Y.
Samuel J. Powers, Jr., of Miami, Fla.
J. Gilbert Prendergast, of Baltimore, Md.
Jules Savard, of Quebec City, Canada.
Thomas W. Sullivan, of Rochester, N. Y.
Henry R. Thomas, of Los Angeles, Calif.
Erskine W. Wells, of Jackson, Miss.
William F. Worthington, of San Francisco, Calif.

Report of President

ALVIN R. CHRISTOVICH
New Orleans, La.

THE twelve months through which we have passed since we last met together at Lake Placid have been eventful ones. Whether we consider the scene from the economic, the political, the social or the military standpoint, we come to the realization that a parade of history-making events has passed in review, leaving in its wake acute and soul stirring problems for solution.

A prominent contingent in the army of citizens who have worked to find these solutions has been the lawyers, and at this moment when so many burning questions are still to be answered and so many complexities still defying understandable interpretations and solutions, there is a great urge to discuss the past contribution, the present status, and the future obligation and duty of the lawyer in this fast developing maelstrom of world-wide conflicts.

But I shall forego such an urge in the interest of discussing with you today some of the attainments, some of the hopes, some of the problems of our own Association. In doing so I think I shall be more accurately fulfilling the spirit of the injunction in our by-laws that the President should annually make an address. In addition a little later in our program this morning you will be treated to an interesting address on a most timely subject by a very prominent educator. I shall therefore confine myself to a somewhat prosaic but nonetheless necessary discussion of our own internal affairs.

Perhaps I should begin my report by disclosing a most obvious fact, that is the esteem and good repute in which your Association is universally held. It is difficult for an individual member, without the benefit of the knowledge which comes to the officers and members of the executive committee, or other committees in Association work, to realize and fully appreciate the high regard in which your Association stands, in the estimation of the courts, the legal profession, the insurance industry and the general public.

You will soon hear the report of our secretary but I know he will not object if I trespass upon it to the extent of telling you that as of today our membership totals 1483. This is a net gain of 30 mem-

bers over last year, taking into consideration resignations, deaths, and any other changes.

I think it is important to note here that contrary to some opinion that we have taken in a great number of new members, actually for the last ten years our membership has been fairly stable within a range of approximately one hundred members. In no sense of the word could it be said that we have indulged in any campaign for new members; to the contrary restrictions surrounding the acceptance of new members are sufficiently exacting so that if present policies are continued, there should be no likelihood of our roster becoming unwieldy or losing quality. It should be noted, however, and I think that this is complimentary to our Association, that as the good reputation of our Association spreads, and as the impact of its value and worth and influence is felt in our profession and in the insurance industry, it is only natural that the knocks at our door for admission become increasingly loud and frequent. Several times now we have deliberated as to whether we should contain the numerical growth of our membership by putting a ceiling on it. As many times, and I think wisely so, we have declined so to do. The situation can be adequately taken care of, I submit, by continuing the policy of thorough processing of applications, and by continuing the high standards we have set for qualifications for membership.

As you will hear in a moment, when our treasurer reports to you, the finances of our Association are sound and adequate for operations based upon a table of operations we have used in the past. You have already been advised of a proposed amendment to our by-laws to provide for an increase of dues in the event a different table of operations is decided upon. But this amendment, and reason for same, will be thoroughly explained to you later on in our deliberations here.

Recently I had the pleasure of attending the annual meeting of a bar association in the Deep South. Many of the members of this Association were present there. I had the pleasure of hearing one of our most prominent members say that in some important litigation in which he was engaged, and while making a research of pertinent law, he came across an article in our Journal which completely covered the point in which he was interested. He went on to say that any contribution he had made to this Association was amply repaid by the valuable information gleaned from this one volume of the Journal. That same comment and experience could be made and had by a large percentage of our membership. This brings me to a short discussion of our Journal.

During the past year under the magnificent direction of George Yancey, the Journal has continued to be a source of constant satisfaction to our members. The same high standards which have made it so valuable have continued. But ever alert to the possibilities of improvement your Journal Committee under the chairmanship of Lester Dodd and the vice-chairmanship of John Faude, has been working on a most comprehensive plan of organization for the Journal contemplated to widen its scope, its effectiveness and its value, and in doing so afford some assistance to the long suffering George Yancey, editor and "daddy" of our Journal, who so patiently and loyally over the years has almost single-handedly accepted all the obligations such an undertaking entails.

The plan provides for the appointment of from five to seven regional assistant editors strategically situated geographically. These men would be in a position to secure articles from their respective areas looking towards the summarization and reporting of important insurance decisions currently decided. This will enable the Journal to carry as a regular feature a summary of helpful decisions from all over the country.

It may be possible too to add personalized comments on the activities of our members which will carry on the tradition of friendliness and neighborly affection which has always existed to such a high degree among our members. These innovations will not only insure some long delayed assistance to George, but will enable him as chief editor to not only maintain, but, if possible, improve the standard and worth of a publication which has been such a boon to our Association as a whole and to each individual member.

Traditionally our Association has had deep rooted ties with the insurance industry. In truth its purposes as reflected in the preamble to its by-laws highlights the protection and promotion of the interests of insurance companies, our clients, and the encouragement of a cordial relationship between our members and said companies.

With this in mind a minute appraisal of our respective relationships seem to indicate that both the insurance industry and our association has failed to take full advantage of the favorable possibilities which can mutually result from a fuller utilization of free discussion of the common problems which exist in the legal-insurance field.

A year ago a stride was taken in the right direction when a public relations committee was appointed within the Association. During the past year your executive committee formulated an Industry Relations Committee. Under the chairmanship of Stanley Morris, and the vice-chairmanship of the late and lamented Howard L. Smith, this committee has made an extended study of the causes, and possible solution of some problems which beset the industry, about which we are all aware; and after discussion and study with the industry, are preparing report and recommendations to your executive committee. Transportation and other allied industries, beset by the same problems of high losses incurred particularly in personal injury actions, have indicated a desire to work with us in ameliorating the situation.

It is a compliment to our Association and to its component members that these industries are looking to us more than ever before for counsel and advice, which after all is as it should be. For certain it is that nowhere else will be found the necessary experience, the knowledge, the influence, the resourcefulness, the vision and adaptability to a higher degree than here in the ranks of our membership.

I prophesy that in the years to come the insurance industry will more and more turn to your organization for the aid and assistance, counsel and advice it is so capable of giving, and so willing to give in conformity with the ideals which it adopted when it came into being.

May I speak to you now about an internal problem of our own and make a recommendation thereon?

I submit that the time has come when this Association should have either a compensated executive secretary or in the alternative that our voluntary secretary be given one or more full time assistants and be relieved of some of the demands upon his time resulting from the duties of secretaryship.

We have been extremely fortunate in the past in securing the volunteer services of men in that position whose love for the organization overshadowed the personal sacrifices they had to make. From the vantage point which I have occupied in the last year I have seen first hand the tremendous amount of work which flows through the secretary's office; and I have seen first hand the tremendous contribution in time and effort made by our present secretary to say nothing of the financial cost to him.

This question has been under consideration by your executive committee during the past year. It first came up for study at the executive committee meeting following the Lake Placid convention. In some quarters it was thought that some saving of time, effort and expense could be made by combining the offices of secretary and treasurer. John Kluwin and Forrest Smith were asked for their considered opinions. Speaking from the long experience each had acquired as officers of our Association each of these gentlemen felt that under the volunteer system existing it would be a mistake to combine the offices, if for no other reason than because of the added volume of work which would fall on the person involved. Each of these gentlemen, however, recommended that the time had come when this organization should have a compensated executive secretary.

At the Miami Mid-Winter meeting the matter was thoroughly discussed again and a special study committee was appointed under the chairmanship of "Tiny" Gooch. This committee reported on yesterday to the executive committee, and the question will be considered again at the meeting of the new executive committee on Wednesday.

In my humble opinion this Association has grown in activities to such an extent that it just is not reasonable to put upon the shoulders of one of our members the responsibility of operating it in the infinite details on a volunteer basis. It is not fair to him, or to his associates. I can speak with authority certainly as far as the past year is concerned. Men like John Kluwin just do not come along frequently. Only a high sense of duty, a fanatical devotion to the Association, and a keen desire to do a job entrusted to him in the very best way, could account for the many personal sacrifices he has made in our cause. But we cannot expect, we should not expect, a repetition of such a situation.

Aside from the imposition we place on one of our members under the present situation, some consideration should also be given to possible benefits flowing to our Association. We have grown up. We have become a dominant force. The advantages and benefits which flow to our membership, substantial now, can be measurably increased. It is only good business to plan for stability and permanency of operation.

I fully appreciate the many advantages resulting from a sense of cooperative volunteer effort. I would not disturb that. I therefore recommend for your consideration and for the consideration of the incoming administration alternative plans as follows:

1. An executive secretary of our Association, man or woman with necessary office personnel, charged with the responsibility of handling all operational details of the Association, with an elective secretary and treasurer, preferably combined, to formulate the interim policies of the Association, and under whose authority he or she would work.

2. As an alternative the continued election of a separate volunteer secretary and treasurer, but with sufficient trained assistance, and an expanded budget, so that the drain upon the time and effort of these officers will be substantially decreased.

My personal preference is ultimately to operate from a permanent office with an executive secretary responsible to an elective secretary and treasurer, and to the executive committee.

Fortunately any plan decided upon need not be immediately operative. We can consider well, and work patiently for a fulfillment of a plan best suited. Traditionally our secretary and treasurer are elected for five-year periods. John Kluwin's five-year period will not expire until next year and of course Charlie Pledger has just served one year. So while we consider our plans during the year we will be assured of the same uninterrupted high standard of service while we are deliberating.

My experience, gained from membership on the executive committee, as president-elect, and as president, indicates that all departments and activities of our Association will be benefited by a more realistic approach to the business of operating the details of such an active organization as ours. One does not have to indulge in mental gymnastics to realize the help which would flow to George Yancey, to the elected officers, to the standing committees, and to individual members with the advent of a permanent location as headquarters and a permanent staff for detailed assistance.

To do this kind of a job we shall need some additional income. It is because of this that the executive committee recommends to you the passage of the amendment which will be presented to you from the floor for a permissive increase in dues, if and when some such new table of operations as suggested is adopted.

It is difficult for me to adequately express my appreciation to the members of this Association for the splendid cooperation they have given me during the past year. The pride which you have in your membership in this great association of ours would become even more emphatic if each of you was able to see the Association at work as I have during the past year.

It is difficult to imagine a more interested, sympathetic, coordinated and energetic group of gentlemen associated in any one common cause. This association will continue to grow in influence and in esteem, and if somewhere along the road I have been able to make even the slightest contribution to its future I shall be very happy.

I cannot allow this occasion to pass without extending to all of you who have been of such great help to me during the year my sincerest thanks. I am grateful to all of the officers and members of the executive committee who have worked so closely and cooperatively with me. I am grateful to John Kluwin whose devotion to your interests knows no bounds.

We accept each year as a matter of course the committee reports from our standing committees hardly realizing the tremendous contributions made by the officers and members of these committees in formulating over a period of months the information contained in those reports for the education and assistance of our membership. I am grateful to all of them for the high spirit and devotion which they have shown and for the concrete results of their labors which you will enjoy in the next two issues of the Journal.

I should like to express my appreciation also to all of our members who have worked to make this convention a success. I shall not mention their names here but as you peruse your printed program you will find in the back thereof the Conven-

tion Committees composed of men and women who have worked diligently over the past several months in the direction of making this convention a pleasant one.

Perhaps there is only one other reference to be made with respect to Convention Committees and that is the one which handled the organization of the special train to Quebec, presided over by Duncan Lloyd. We are very grateful to him and his committee for making it as comparatively easy for so many of us to come to this convention.

And now to all of you may I express my earnest and sincere thanks for allowing me to serve you.

MR. CHRISTOVICH: We will now hear the report of the Secretary, John A. Kluwin, of Milwaukee.

Annual Report of Secretary

JOHN A. KLUWIN
Milwaukee, Wisconsin

MY ANNUAL report to you has always been very brief. I feel this year, however, in view of the experience which I have gained and the matters which will come before you at this convention that my report should be a little more detailed in order that you can better appraise the situation involving the secretary's office, and possibly other offices.

First, I would like to give you the usual factual information. Our membership as of June 18, 1953, was 1,483 as compared to 1,453 one year ago. During the past year we have admitted 78 new members but have lost 18 through resignations, 26 by death, and four members have been dropped for nonpayment of dues.

I have made a study of the four years immediately preceding my first election as your secretary and the four years since that election, and I am including in my facts and figures the comparative membership figures and the attendance at our annual conventions.

From 1944 to 1948, our membership averaged 1,349 persons. From 1949 through 1952, our average membership was 1,424, or an increase of only 5 per cent over the average for the preceding four years.

The attendance at the four conventions from 1944 to 1948, inclusive, averaged 367 persons. Bear in mind that this number includes wives, children and guests. The attendance at the conventions for the years 1949 to 1952, inclusive, averaged 611 persons, or an increase of 40 per cent over the average of the previous four conventions.

Our registration for this year's convention as of June 18 was 890 persons. The final figure, of course, will vary slightly in accordance with the additional reservations or cancellations received after that date, but you can readily see that there is a very substantial increase in the attendance over the previous average.

In addition to the handling of requests for reservations, cancellations, arrangements for your annual convention, and assistance to the president-elect in making committee appointments, the secretary's office during the past year has handled the processing of 85 applications of which number 78 were accepted, three were rejected, and four were held for further consideration by the executive committee. We also have 29 applications which are being processed at the present time.

During the past year your secretary's office has handled in excess of 20,000 pieces of incoming and outgoing mail. This is a staggering figure, but you can understand why the figure mounts so rapidly when you realize that we had over 1,100 persons requesting reservations for this convention involving an exchange of approximately 5,000 pieces of correspondence, for each request involved a minimum of two letters written and two letters received, and many of them involved as many as ten or more letters written and received. Also, every application for membership which is processed involves from 27 to 35 letters. The average daily mail consists of 20 letters received which require my personal attention, and at least 75 per cent of these letters require a reply.

The foregoing is only a brief statement of some of the duties involved and is given as a statement of facts for your benefit and as a basis for the following recommen-

dation which I have made to your executive committee and which I repeat to you.

It is my judgment that the officers of secretary, treasurer, and editor should be continued as board members of this Association but that the duties of said officers, except as in an advisory and policy-making capacity, should be carried out by an executive secretary. Our by-laws permit it, our organization is large enough, and in my opinion the demands of the various offices require that such action be taken.

My suggestion is not unique. Richard Montgomery, who previously served so faithfully as secretary of this Association, made the same recommendation to this Association's convention at The Greenbrier on September 4, 1940, where there were 417 persons in attendance. His remarks will be found on page 13 of the October, 1940, issue of our Journal. Our membership at that time was 1,350, or only 5 per cent less than it is today, but the services which are now being performed at the direction of your executive committee have greatly increased. At that time the secretary did not attempt to handle convention reservations, collect registration fees, or process applications in the extensive way that is now required.

The work involved in connection with acting as secretary of this Association is too much to ask of anyone who is attempting to engage in the private practice of the law, and I feel I would be remiss in my duty if I did not apprise you of these facts in order that the future policy of this Association can be adequately determined in respect to the operations of the offices of secretary, treasurer and editor. I appreciate that my suggestion cannot be carried out at this convention, but you can, by appropriate action, pave the way for the executive committee to make a proper determination of this important matter.

I want to take this opportunity to dissipate any thought that I have any desire to be executive secretary. It has come to me from sources where I have voiced the views which I have expressed in this report that I was looking for such an office. I am not interested and would not be interested under any circumstances.

I want to thank all the members of the executive committee for the help which they have given me during the past year. I also want to express my gratitude to Duncan Lloyd for the very valuable assistance which he gave in connection with organizing the special train and working out arrangements with the Drake Travel Service for the sightseeing trips and the Saguenay River Cruise.

I am deeply grateful to Mr. Jessop, manager of the Chateau Frontenac, and his associates who have been most considerate and cooperative in helping me to solve the many reservation problems. The number of requests for reservations far exceeded our fondest expectations.

Our President was always a source of great comfort for in his own quiet but forceful and convincing way, he was always available to solve the many problems which arose during the past year, all of which were resolved to the benefit of this Association.

I want to express a word of thanks to the three young ladies: Misses Scholtka, Dahinden and Farrar—who are serving us so faithfully. Their services to this Association have been far beyond the call of duty. I know that they will appreciate a word of thanks from you too.

I thank you for the opportunity to serve you.

(Applause).

ALVIN CHRISTOVICH, President:

Thank you again, John. We will now have the report of the treasurer, Charles E. Pledger, Jr., Washington, D. C.

(Applause).

Report of Treasurer,
Charles E. Pledger, Jr., Washington, D. C.

I submit herewith a treasurer's report for the period November 1, 1952 to June 23, 1953, together with a budget analysis through the latter date. These reports accurately reflect the financial condition of the Association and are self-explanatory.

A study of these reports will indicate that the Association is operating on an extremely narrow margin of safety from a financial standpoint. The total amount budgeted for essential operations of the Association for this fiscal year is only a

few hundred dollars less than our expected income for the same period. Our sources of income are limited to annual dues, subscriptions to the Journal, a small amount of interest, application fees from new members and registration fees of those attending our annual meetings. Any contemplated increase in our costs of operation will have to be accompanied by an increase in our income. The only apparent and most logical source from which such an increase could be derived would be an increase in the annual dues of members.

I wish to pay tribute to Forrest S. Smith, my predecessor in office. Not only were his records in excellent shape but he was most cooperative and helpful in acquainting me with the duties of my office. As a result, the transition in the office of treasurer was accomplished with a minimum of effort.

It has been a pleasure to work with the other officers and members of the executive committee. I am appreciative of the privilege of serving this Association and its fine membership.

REPORT FOR PERIOD NOVEMBER 1, 1952 THROUGH JUNE 23, 1953

Balance at Oct. 31, 1952:			
CASH:			
On demand deposit		$10,368.42	
UNITED STATES BONDS:			
Defense Series G:			
Maturing February 1954	$ 5,000.00		
Maturing February 1955	$10,000.00	$15,000.00	$25,368.42
RECEIPTS:			
Dues, 1953	$21,375.00		
Dues, 1952	15.00		
Registration Fees	3,690.00		
Subscriptions to Journal	586.50		
Interest	187.50		
Application Fees	1,095.00		
Miscellaneous (Premium on exchange)	2.50	26,951.50	
DISBURSEMENTS:			
Secretary's office expense	$ 3,200.33		
Treasurer's office expense	751.69		
Registration refunds	1,305.00		
Mid-Winter Meeting	4,958.11		
Convention Expense	709.84		
Journal Expense	3,971.34		
Refund of dues—Non-member	15.00		
Application refunds	75.00	14,986.31	
Excess receipts over expenditures for period			11,965.19
Balance June 23, 1953			$37,333.61
Accounted for as follows:			
CASH:			
On demand deposit		$22,333.61	
UNITED STATES BONDS:			
Defense Series G:			
Maturing February 1954	$ 5,000.00		
Maturing February 1955	10,000.00	15,000.00	
		$37,333.61	

Through June 23, 1953, 1,424 members have paid their dues for this fiscal year.
Through June 23, 1953, 425 members have paid their registration fee for 1953 Convention.

BUDGET ANALYSIS THROUGH JUNE 23, 1953

	Amount Budgeted		*Expenditures*		*Unexpended Balance*
Secretary's Office	$5,850.00		$3,200.33		$2,649.67
Treasurer's Office	1,300.00		751.69		548.31
Journal	8,750.00		3,971.34		4,778.66
Mid-Winter Meeting	6,000.00		4,958.11		1,041.89
President's Expense	350.00		.....		350.00
Selection of Committees Expense	150.00		.....		150.00
General Expense	250.00		15.00		235.00
		$22,650.00		$12,896.47	$ 9,753.53
CONVENTION EXPENSE					
President's Reception	$2,350.00		.....		$ 2,350.00
Banquet Flowers	100.00		.....		100.00
Reception for Wives of New Members	165.00		.....		165.00
Bridge Prizes for Ladies	275.00		.....		275.00
Entertainment, Young Fry	100.00		.....		100.00
Non-Member Speakers	1,000.00		546.79		453.21
Expenses for Journal Editor to Convention	150.00		.....		150.00
Reporter to Convention	500.00		.....		500.00
Convention Secretaries	1,000.00		.....		1,000.00
Printing for Convention	250.00		39.92		210.08
Convention Site Committee	150.00		12.01		137.99
Special Entertainment	550.00		.....		550.00
Miscellaneous	150.00		111.12		38.88
		6,740.00		709.84	6,030.16
TOTALS		$29,390.00		$13,606.31	$15,783.69

ALVIN CHRISTOVICH, President: Thank you very much for that very fine report. Now Gentlemen, if you will permit me, I will change the order of this agenda in just one detail at the moment; I know that you are all interested in an announcement about your entertainment while you are here at this convention, and we have with us Pat Carey, who once again heads our entertainment committee. He has done this for so many years, we are all so happy to have him do it again, Pat Carey.

MR. PAT CAREY: Mr. President, Distinguished Speakers, Ladies and Gentlemen. I asked to have the opportunity to make this statement now because I have to go across the square and address the other fellows of this convention, they are over there at the liquor store. There were three or four people who spoke to me yesterday, explaining about the fact that they couldn't get any liquor, but I think three or four people out of eight hundred who want a drink on Sunday stands pretty well for the Association.

The entertainment venture is already underway, and believe me, I don't want to go through it again. We have 56 kids on their way to the picnic. They have their lunches and are going over to the Island of Orleans, where they will eat, swim and do some sight-seeing.

The next event will be the Ladies' Reception at 12:30 in the Champlain Room. The ladies will have their chit-chat and then go to the Riverview Dining Room for their lunch.

The Ladies' Bridge and Canasta Tournament will be at 2:30.

The Reception for the wives of new members is under the chairmanship of Mrs. Forrest Smith, wife of your former treasurer. The Bridge and Canasta Tournament is under the chairmanship of Mrs. R. W. Shackleford, Tampa, Fla.

In the evening at 6:30, the President's Reception will be held in this room and at the same time a child "Cocktail Party" will be held in the Children's Playroom.

Tomorrow the afternoon has been given over to sightseeing tours and a Man's Bridge and Canasta Tournament.

The banquet will be held in this room, Tuesday night and I again want the executive committee to sit at the table set up for them and their wives. There will be a special table for the past presidents.

This evening we will have the International Cabaret. You will have a very famous choral group from Quebec that will entertain you with two different types of entertainment. I am sure that you will be very happy to hear them. There will be dancing and other entertainment. I think that about completes my announcements, unless the President has something to add. (Applause).

ALVIN CHRISTOVICH, President: Incomparable Pat Carey, we are very grateful to you for that arrangement.

I will now ask for the report of the Memorial Committee by F. B. Baylor, of Lincoln, Neb.

Report of the Memorial Committee — 1953

WE now, at the first opportunity, pause to pay tribute to those builders, who, while valued members of this Association, have laid down their tools and passed to others the privilege of carrying on their work.

With gratitude we acknowledge the heritage, which, from them has come to every community where they lived and to every person with whom they were associated.

May their prayer be our prayer in the words of Gail Brook Burket:

I do not ask to walk smooth paths
Nor bear an easy load.
I pray for strength and fortitude
To climb the rock strewn road.
Give me such courage I can scale
The hardest peaks alone
And transform every stumbling block
Into a stepping stone.

Let us stand and in sorrowful memory review the list of those whose names, since last we met, have been inscribed on the Memorial Roll.

R. K. Lewis, West Palm Beach, Fla.
R. W. Heidelberg, Hattiesburg, Miss.
R. E. Wilbourn, Meridian, Miss.
Edward A. Markley, Jersey City, N. J.
Ulysses S. Thomas, Buffalo, N. Y.
Lee J. Scroggie, Detroit, Mich.
S. W. Plauche, Sr., Lake Charles, La.

Fred H. Rees, New York, N. Y.
Frank J. Canty, New York, N. Y.
Daniel S. Newman, Pittsburgh, Pa.
Will R. Manier, Jr., Nashville, Tenn.
Dickson McLean, Lumberton, N. C.
Glenn R. Dougherty, Milwaukee, Wis.
Walter W. Harris, Scranton, Pa.
Theodore S. Pearce, Miami, Fla.
Peter E. Dempsey, Columbus, Ohio.
C. E. Warner, Minneapolis, Minn.
Joseph B. Beach, Stevens Point, Wis.
C. A. Burnett, Pittsburg, Kan.
John V. O'Hearn, St. Paul, Minn.
Frank W. Davies, Birmingham, Ala.
J. B. Robertson, Kansas City, Mo.
Webster S. Achey, Doylestown, Pa.
Harry F. Stiles, New Orleans, La.
Howard L. Smith, Tulsa, Okla.
Thomas J. Agar, Toronto, Canada.
Willis Smith, Raleigh, N. C.

Mr. President, standing in silence, we have indicated the respect in which is held the memory of those whose names have been added to the ever lengthening scroll, and we have expressed the sorrow created by their passing.

With regret, the report of the Memorial Committee is submitted.

Chairman: Baylor, F. B.—Lincoln, Neb.
Vice-Chairman: Brown, Oscar J.—Syracuse, N. Y.
Crawford, Milo H.—Detroit, Mich.
Dickie, J. Roy—Winter Park, Fla.
Hayes, Gerald P.—Milwaukee, Wis.
McGough, Paul J.—Minneapolis, Minn.
Ex-Officio: Spray, Joseph A.

ALVIN CHRISTOVICH, President: Thank you. Now the report of the editor of the Journal, George W. Yancey, Birmingham, Ala.

Report of Editor, Geo. W. Yancey, Birmingham, Ala.: As Editor of your Journal I thank each of you for your assistance to me.

(Applause). (Brevity).

MR. CHRISTOVICH: I am about to introduce to you the principal speaker at this session of your convention. Had it not been for the fact that this gentleman chose a career in education, it is very probable that he would have chosen the legal profession, and might even be sitting with us today as one of our members. I say that because the legal profession is deeply rooted in his family life. His father was Judge William Easton Hutchison, justice of the supreme court of Kansas.

Dr. Hutchison received his A. B. degree from Lafayette College, and his M. A. degree from Harvard University. He continued his university work at Princeton Theological Seminary and received his Ph. D. at the University of Pennsylvania. Many honorary degrees have been conferred upon him, including Doctor of Divinity, Doctor of Laws, Doctor of Humane Letters and Doctor of Literature.

In the first World War he served as an aviator in the United States Naval Aviation.

His work has been extremely varied and his genius for education has been felt not only in this country, but abroad. From 1925 to 1931 he was Dean of the College of Philosophy and Religion at Alborz College in Teheran, Iran. Returning to the United States in 1931 he assumed the presidency of Washington and Jefferson College where he remained until 1945. He began his duties as president of Lafayette College in 1945.

Some of his civic work includes the executive directorship of Civil Defense in the state of Pennsylvania from 1942 until 1945; vice-chairmanship of the Pennsylvania Aeronautics Commission which post he presently holds; vice-president and director of the Pennsylvania United War Fund for 1942 to 1944; and member of the Commission on Surplus Property, United States Department of Education during 1943. He has been a frequent contributor of articles in many of our well known magazines and publications. He has held directorships on many educational boards, public and private.

Although his daily life is filled with the responsibilities and duties which he has assumed, and accordingly his club life is restricted, when the occasion presents itself he finds much pleasure in associating with his friends in the Duquesne Club of Pittsburgh, Pennsylvania; the Metropolitan Club of Washington; the Northampton Country Club, Easton, Pennsylvania; the Pomfret Club, Easton, Pennsylvania; the Union League Club of Philadelphia, and the University Club of New York City, in all of which he holds membership.

In 1942 he was decorated with the Yorktown Medal, Society of The Cincinnati. In that same year he was elected president

of the Scotch-Irish Society. The Commonwealth of Pennsylvania bestowed the Meritorious Service Medal in 1946 and in 1947 the United States Government cited him with a certificate of merit.

From these introductory observations you no doubt agree that this gentleman is well qualified to speak on the subject he has chosen for today, "The Conquest of Man." I have the great honor to introduce to you Dr. Ralph C. Hutchison, President of Lafayette College.

The Conquest of Man

DR. RALPH C. HUTCHISON
President, Lafayette College
Easton, Pennsylvania

IN this world situation we are all troubled by a deep question—we wonder what the great issue is. Why is the world in arms? What is all of the shooting really about? I assure you that there is no easy answer. The oldest and wisest are as uncertain as we are here. The discussions and debates, the solemn, dogmatic and conflicting pronouncements of the pundits and of the statesmen prove this point. I, least of all, know the answer. But it is appropriate here that we put the question. In probing for an answer we may stimulate you to do better and deeper thinking and to come up with surer conclusions.

I.

To simplify by elimination we suggest, first, that the issue over which the world is in conflict is nothing so obvious as communism. Economic communism is formidable but is certainly not the basic problem before society. Apparently it has not commended itself to thinking men. Nowhere in my knowledge has any nation or any people accepted communism save by compulsion of terror, assassination, torture, concentration camps, machine guns, proscriptions and controlled elections. Furthermore, each of the leading exponents of economic communism who remained after the death of Lenin has been liquidated by the present dictator who is himself the supposed exponent of the same principles. This could scarcely happen if these principles were the great issue.

Nor is equality the issue much as this word is bandied about by Marxian thinkers. Each social order strives for equality. Communism proclaims racial equality but denies intellectual equality. Democracy strives for equality in all things, especially in opportunity and in freedom. But it attains this objective very slowly because it declines to secure its ends by ruthless oppression. Its equality is a hope deferred, a slow educational process—here a little and there a little. There is no equality in communism which has not long been sought by democracy, and there are many equalities in democracy that are forcefully repudiated by communism. But both hold to the ideal. Equality is, therefore, not the supreme issue before society. There is something else about which we are doing all of this shooting.

II.

Not for easy acceptance but for your serious consideration I propose that the issue in the social and international conflict is the problem of power—the determination of men to secure power over nature and mankind and the wish thereby to reshape society according to their own peculiar ideas. The craving for power has long been recognized. You will recall the words of Thomas Hobbes in "The Leviathan" when he placed this first among,

> "those qualities of mankind that concern their living together in Peace and Unity . . . a perpetual and restless desire of Power after power, that ceaseth only in death." (Everyman edition pp. 62, 3).

To quote a modern scholar, Sir Walter Moberly, we get again a recognition of this passion for power.

> "The craving for domination is indeed one of the most elemental of all human urges. It is shown in primitive society in the cult of the medicine man, in folklore, in the hero who can command the services of the genie of the bottle or the lamp. In more sophisticated form it is exemplified in the Faust legend. It is, as Hobbes suggests, an insatiable appetite." (The Crisis of the University, p. 84).

We are not suggesting that this appetite for power and for domination over men is any stronger today than in the past when Alexander tried to conquer the world and shape it to his own ends and ideas. Whether the desire for power has increased or decreased makes little difference, because something else has changed appreciably. The means of power have vastly increased. Science has had its most amazing development in a few generations. Through science man finds himself in greater power over all creation than he thought possible in his wildest dreams. In fact, if the fabled lamp of Arabian nights had come true and if Faust had received in fact all of the power promised in the legend, these powers would still have been trifling and absurd compared to those which science has now given us over nature, man and beast.

About 77 years ago James Fitzjames Stephens in his book, "Liberty, Equality and Fraternity," discussed the power exercised over men by Alexander, Caesar, Charlamagne and Akhbar and then added,

> "President Lincoln attained his objects by the use of a degree of force which would have crushed Charlemagne and his paladins and peers like so many eggshells." (p. 29).

There has been more increase in power in the 90 years since Lincoln than there had been in the 1100 years between Charlemagne and Lincoln. In the instruments of this new power the atom bomb is only one item, perhaps one of the least. The atom bomb can only kill the body. We are reminded of the words of Christ,

> "Fear not them which kill the body, but are not able to kill the soul; but rather fear him which is able to destroy both body and soul in hell." (Matthew 10:28).

Science has given us many weapons of power over body and soul as Doctor Goebbels and his more recent disciples have demonstrated — compulsory propaganda education, the controlled press, the powerful and subservient radio, the slanted motion picture and all the other new powers which are available, television, aeroplane, psychology, sociology, the new genetics, selective breeding, eugenics, pre-natal conditioning and the totalitarian state itself. This conquest of nature of which we have been so proud now threatens to be the conquest of man, and the control of both man and society by some small and dangerous group. Those who wish to conquer and control mankind plan it not only for their contemporary generation but they talk of controlling succeeding generations, millions of unborn. The concept then is that of some small but powerful group reshaping the social order to suit their own limited intelligence and of some maudlin group presuming to shape the destiny of succeeding generations.

According to this philosophy, science then has the function of giving some group power and this group will use this power to reshape society as it chooses. This is not to happen here and there in one nation but is to take in the whole social order in one complete plan and is to control this and succeeding generations. This is the consummation of the insatiable appetite for power.

Perhaps a little of the text would help. This is from Professor J. D. Bernal in his book, "The Social Function of Science," written by one who was not I believe a professing communist nor a socialist but a scientist trying to determine the end toward which our science is moving.

> "It is to Marxism that we owe the consciousness of the hitherto unanalyzed driving force of scientific advance, and it will be through the practical achievements of Marxism that this consciousness can be embodied in the organization of science. . . . Science will come to be recognized as the chief factor in fundamental social change. . . . The socialized integrated scientific world organization is coming."

And this socialized integrated scientific world organization is only part of it. We quote further,

> "We shall find many new means of controlling life to an extent at present undreamed. . . . At least we are beginning to understand, and at some time may be able to mould, the development of living matter. . . . Genetics furnishes us with another quite independent means of modifying life through selective breeding and even the creation of mutations." (pp. 338, 339, 340).

Is it any wonder that scientific men who hoped only for the service of humanity stand aghast at the Frankenstein which has been created? Now their achievements are to be turned against them and they are,

through those powers, to be subdued into an integrated world organization on the pattern of those who seize and misuse power. A great retired British scientist speaks now before the British Association,

> "In the present day thinker's attitude toward what is called mechanical progress we are conscious of a changed spirit. . . . There is a sense of perplexity and frustration, as one who has gone a long way and finds he has taken the wrong turning. To go back is impossible; how then shall he proceed. . . . An old exponent of applied science expresses something of the disillusion with which, now standing aside, he watches the sweeping pageant of discovery and invention in which he used to take unbounded delight. Whither does this tremendous procession lead?" (Sir Alfred Ewing).

But science has certainly not been wrong in its sweeping pageant of discovery and invention and there must somewhere in our body of truth be an opposite philosophy to that which threatens the happiness and freedom of the world. There is such a philosophy. I am not sure of a name for it unless it be the philosophy of Christianity. Not the religion of Christianity but the philosophy. It is very simple. It is the voluntary high-minded abnegation of power, the refusal to use power for the brutal control of men and society. It is the philosophy that insists that men must remain free to develop in themselves their highest destiny and that whatever power there is must be used for their service not for their enslavement.

After all, granting that we are acquiring the power to do so, why should anyone wish to control humanity, to set the social pattern and the economic status of millions of men, to mould humanity in the pattern of his small mind? What colossal conceit is it that leads any group to believe they have the infinite wisdom and the unsearchable knowledge to rule the thoughts of men and determine the breed and temper of unborn generations? The blasphemy of Lucifer was as nothing to that of mortal men or groups who would force all mankind into their own carnal image. What a horrible and selfish lust for power this is which would use all the achievements of our greatest science to manipulate the peoples of the earth, to conquer the individual man, to play upon the stops and keys of his life, to pluck the heart out of his mystery and to deny to him his own way, his own integrity and his own sacred personality!

A step into theism and this opposite philosophy becomes clear. Whoever He is who set this infinite universe in motion and placed the human soul on this smallest of worlds could certainly have made all men good through the exercise of power. Evidently intent upon the creation of certain moral beings, men who had chosen the good and followed it—intent on such a purpose He apparently declined to use His power. He left men free, free to choose, free to love or hate, free to help or to kill, free to love lies or seek truth. This was the great abnegation of power at the heart of the universe.

Christ made this point to Peter who had drawn his sword. He rebuked him and said,

> "Thinkest thou that I cannot now pray the Father and he shall presently give me more than twelve legions of angels?" (Matthew 26:53).

The great temptations of Christ were temptations to use power which was evidently in his hands, political, social, psychological power, to make society good, to remake the social order. And this he declined to do, choosing rather to plead with men, to preach, to reason, even to die for them—but not to force them.

> "Behold I stand at the door and knock, and if any man will open I will come in to him."

This was the abnegation of power.

This is the philosophy in democracy—that men shall be free from an undue imposition of the power which government can exert. This abnegation of power is because of respect for the dignity and the destiny of the individual. Because he is what he is, and because he may become what he is not, we withhold the power which would force him into some ruler's pattern of life. Laws and compulsions are to be at the minimum. Safeguards of individual rights are to be maximum. Power is withheld. But education replaces it. Here we strive to awaken the mind, not to blow it into atoms. Here we strive to enlighten the heart. Here we plead, we write, we study, we search for truth. And thus through persuasion and education and inspiration we strive to make men better and make society happier. We even pray to God to touch the hearts of men

but He only touches, and beckons and waits.

IV.

This then I believe to be the issue before the world, the use of power for the conquest of man or the abnegation of power in order that men might be free. This is the issue that lies between those who would control society and whip mankind into an integrated scientific goodness and those who would win the minds of men and so attain the Kingdom of God on earth. This is what the shooting is about in Korea and China, in Berlin and Iran. This is the issue with which your thinking, your studies, your public service and your professional lives will be involved. Shall this unprecedented power of a scientific world be used for the freeing and uplifting of men everywhere, or shall it be used for the "Abolition of Man?"

ALVIN CHRISTOVICH, President: It is obvious how much we appreciate the magnificent address we have just heard, and it is all the more appreciated because we realize the stress under which you spoke, due to the fact that you have just arrived in Quebec. We are somewhat embarrassed and apologetic that there should have been any error in the arrangements, but we are very grateful to you for coming. We hope that you will remain with us during this convention as our guest, and that you will enjoy the entertainment that goes along with the convention. Thank you very, very much.

Now gentlemen, we are fast concluding the morning session. There is an item on your agenda or program, the reports of the standing committees. Traditionally, as you know, these reports are accumulated over the years. They will be printed for your use.

Amendment to By-Laws

The next item is the proposed *amendment to by-laws* relating to increase in dues and a proposed amendment to the by-laws relating to membership eligibility.

Presently your by-laws provide for annual dues of fifteen dollars per member. We are going to offer you a proposal that annual dues be fixed by the executive committee not to exceed twenty-five dollars a year. The reason for putting it in that form is this: The work of the secretary of the Association and his assistants has now grown to such an extent that your executive committee and your secretary feel that it cannot any longer carry on with the present set-up. Just exactly how it can be done is somewhat uncertain at this time; whether we shall have a fully paid executive secretary with permanent headquarters, or accomplish a satisfactory result by something short of that is not quite known, but certainly some increase in dues is going to be necessary to do any sort of a job, even reasonably well. I therefore propose the following resolution, notice of which has been given in the Journal.

"BE IT RESOLVED that Sec. 2 of Article V of the By-Laws be amended to read as follows:

"Each member shall pay to the Association annual dues for the period beginning November 1st of each year and ending the following October 31st, payable November 1st of each year in advance, in such amount as shall be fixed by the Executive Committee, said annual dues not to exceed the sum of Twenty-Five Dollars ($25.00). The annual dues shall include subscription of the member to the Insurance Counsel Journal."

MEMBER: Mr. President, I move the adoption of that motion.

ALVIN CHRISTOVICH, President: The motion has been made and seconded. Is there any discussion on the motion? The motion is passed.

Now, I shall call on Stanley Morris of Charleston, West Virginia, who will explain the contemplated change in the by-laws with respect to membership eligibility and speak on that change. Gentlemen, Mr. Stanley Morris. (Applause).

STANLEY C. MORRIS: The proposed amendments to by-laws as appear on page 86 of the April, 1953 issue of Insurance Counsel Journal were read to the meeting as there set out in full.

MEMBER: I move the adoption of the amendments as proposed.

ALVIN CHRISTOVICH, President: Gentlemen, you have heard the motion. Is there a second? Is there any discussion on the motion? Those against, say no. The motion is carried.

President Christovich, as required by the By-Laws of the Association, appointed a nominating committee for the nomination of officers and executive committee. (Applause).

ALVIN CHRISTOVICH, President: I think we have completed our program

for this morning, unless there are any further announcements, any further suggestions, we shall adjourn the general session till Wednesday morning. Thank you very much for your attention.

AFTERNOON SESSION ANNOUNCEMENT BY MR. KENNETH P. GRUBB
Chairman Nominating Committee

Mr. Chairman, Members of the Association, the Nominating Committee will have its first session in the afternoon between three-thirty and four-thirty. We will meet in Salon number two, which you will reach going out this door and just before you come to the dining room, turn to the right and go up the hall to Salon number two. We will meet again in the same room at nine-thirty tonight.

Again, I want to say that the Nominating Committee welcomes the opinion and considered judgment of everyone of you. We need your help, we want your help; come in to see us with your ideas and they shall be given consideration, I assure you.

DENMAN MOODY, Chairman: I want to welcome all to the open forum. I want to call your attention to the fact that we have two sessions: one this afternoon and one tomorrow morning, three speeches this afternoon and one speech in the morning. I hope all of you will be here in the morning for the second session.

I am not a stranger of the Chateau Frontenac, I got married in 1930, and I wanted to spend my honeymoon in West Texas, my wife wanted to spend her honeymoon at the Chateau Frontenac. After an argument, we compromised and came here. I went, two years ago, to one of the meetings where we discussed where we would have the convention this year. The Chateau Frontenac was suggested. I said: "I know all about that place, I spent my honeymoon there." I was handed one of the pictures of the Chateau, I looked at it, and I said: "This couldn't be it, I don't remember all that water around there." One shot back at me: "Moody, when you had your vacation up there at the Chateau, you didn't look out the window."

I present Lester P. Dodd, who will introduce our first speaker.

MR. LESTER P. DODD: Thank you Den. Members and Gentlemen of the Association, I would like to say first that that must have been Den Moody's first marriage, if the honeymoon was in 1930, they couldn't have been married that long.

I have the pleasure of introducing a young man to you who has been a member of the executive committee for the last couple of years. He is known in that committee well and favorably as the "Dissenter." He votes "No" on everything everybody else votes "Yes," and he votes "Yes" on everything everybody else votes "No." I don't say that in a critical view because that's the characteristic every executive committee needs. It has given us the balance, the material such an Association needs, and it has been a great help to us.

I haven't any idea what he has left to say after giving the title: "Relationships Between Primary and Excess Insurance Carriers in Cases Where Judgment or Settlement Value Will Exhaust Primary Coverage." I haven't the faintest idea of what he is going to talk about, and if he can make clear to you what this means, I am sure you will agree that he is a very valuable member of the executive committee, and a man who ought to continue in office.

It is my pleasure to give you under this most imposing title, William Knepper of Columbus, Ohio.

Relationships Between Primary and Excess Carriers in Cases Where Judgment or Settlement Value Will Exhaust the Primary Coverage

Wm. E. Knepper
Columbus, Ohio

EXCESS coverage may exist under a variety of circumstances. [1]However, two of the most common situations are, (a) when the insured purchases a policy of primary insurance and a second policy providing coverage in excess of the primary carrier's limits, and (b) when an insured has one policy which provides that it shall

[1]8 Appleman on Insurance Law and Practice, 33 et seq.

constitute only excess coverage over and above any other valid and collectible insurance relating to the particular risk, and is covered under another policy which provides the primary coverage.

In this discussion, we start with the assumption that two policies, issued by two separate carriers, are in force, one primary, the other excess. We also assume that the insured will be granted full protection by his respective carriers with their limits. What we are dealing with here is the relationship of those carriers with each other and their respective obligations to each other.

Before the advent of the "More Adequate Award," the position of the excess carrier was not too difficult. However, since verdicts in personal injury cases have risen to astronomical figures, the situation is not uncommon that the primary carrier's limit is known to be exhausted at the outset, and the excess carrier is the insurer who has the real hazard.

Webster says that "adequate" means "suitable, full, satisfactory, ample, sufficient." "More" means "a greater quantity, amount or number, that which exceeds or surpasses what it is compared with."

So, the "More Adequate Award" is that verdict which exceeds or surpasses what is suitable, full, satisfactory, ample and sufficient. Whether such an award is just or not, present day conditions require insurers to face it and be prepared to deal with it. And the possibility of such an award must be taken into consideration in determining the obligations of primary and excess insurers to each other.

Of the many problems involved between such carriers, four have been selected for this consideration.

First, we ask, "To what extent should the excess carrier take over the handling of settlement negotiations and defense?"

Under normal circumstances, the excess carrier should not do so, at least until the primary carrier has ceded its limits to the excess carrier. Usually the excess carrier has no contractual obligation to defend when the defense is provided for under the primary policy. And generally the primary carrier has not only the obligation but also the facilities to conduct a first class investigation, adjustment and defense of any case.

There are exceptions to this general rule. Sometimes expediency will dictate that the excess carrier should step in and take over or assist in the settlement negotiations and defense. Some primary carriers will attempt to gamble with the future of the excess interests by attempting to save something on the primary policy limit in a situation where liability is manifestly against the insured interest and the damages, on their face, are such as would command a judgment or settlement well beyond the primary limits. On other occasions the excess carrier may feel that the defense is being mishandled, to its detriment.

While we recognize the general rule that the excess carrier should remain in the background, it may, nevertheless, be forced to become the active participant under several additional circumstances.

The primary carrier may honestly believe that there is a valid liability defense, but if the excess carrier thinks otherwise it may have to move in to protect its own interests.

When the value of the case greatly exceeds the primary coverage and involves the excess coverage by a large proportion, the excess carrier may be forced to take the lead, especially if there is any indication that the primary carrier has lost interest in the defense and is simply going through the motions.

If there is a question of coverage between the insured and the primary carrier or if the case has progressed in such a way that the primary carrier has lost control of it, then the excess carrier may have to step in. Other like situations may be conceived

Generally, however, we must recognize that the primary carrier's counsel has lived with the case and can handle it better than an unfamiliar outsider who comes in cold. Also, excess insurers generally are not staffed to investigate and handle cases at the local level and they are usually better off with the primary carrier taking the lead unless some serious question as to the risk makes it imperative for the excess carrier to take over.

Our second question is, "To what extent is the primary carrier relieved of further obligations, if it tenders the full amount of its policy limit to the excess carrier?"

Generally, the obligation to make the defense remains with the primary carrier even though it is ready to pay its policy limit. There are several reported cases on

this point and they are not entirely consistent.

In the Fourth Circuit the leading case[2] says that the obligation to defend suits is entirely independent of the obligation to pay for bodily injuries and property damage. Illustrating its position, this court says, "Let us suppose that a policy of the kind before us has a coverage of personal injuries only, with a limit of $5,000. The insured, while driving his car, inflicts on an individual severe, permanent and terrible injuries. The case, if tried in court, will be long and complicated. Could the insurer tender the insured $5,000 and wash its hands of the whole case? We hardly think so. The defense of such suits is a valuable right of the insured for which he pays and to which he is entitled by the very words of the policy." The Fifth Circuit agrees.[3]

A Seventh Circuit case[4] was concerned with a policy which provided that "as respects insurance afforded by this policy" the insurer should defend any suit "alleging such loss and seeking damages on account thereof." Construing that language, the court held that upon the tender of the full amount of its limit the company's liability for losses was extinguished, and, there being no further insurance afforded, its obligation to defend was likewise terminated.

Demonstrating a middle ground and expressing what may be the most nearly correct rule for insurers to follow is a New Hampshire case[5] which takes the position that the policy obligates the insurer to pay the liability of the insured up to the policy limits and, in addition thereto, to pay those items of expense, including cost of defense, which it has definitely assumed, but that when the insurer has performed its duty of payment, its duty to defend then ceases to exist.

That court expressly holds that the insurer may not, in the first instance pay over its full limit and thereby entirely escape the burden of investigation, settlement and defense; neither can it abandon the defense in mid-course and under circumstances prejudicial to the insured. But, having defended up to a final judgment which has been paid to the full limit of its obligation, the insurer, says this court, has no further duty to defend other actions which would fall within the same liability limit.

The practical aspects of this problem are more difficult than the legal aspects. Where the primary carrier's limit is sure to be exhausted so that it would have little interest in the outcome of the litigation, the excess carrier may find it wise to take over. Under some conditions, primary carriers have been known to force excess carriers to assume the defense by referring the case to an inexperienced lawyer just out of school or to some lawyer whose record as a trial attorney is known not to be good. Generally, however, primary carriers cannot afford to prejudice their relationships with excess carriers by trying to force them into any particular action. They need each other in the over-all insurance picture, and acting in harmony works out for the benefit of both of them.

Thirdly, we are presented with this question, "Should the excess carrier be called upon to contribute toward a settlement for a sum less than the full amount of the primary coverage?" That is, if we suppose, for example, that the primary coverage is $10,000 and the case can be settled for $8,000, should the excess carrier be asked to contribute, assuming the injuries to be bad.

The categorical answer to this question is, "No." As we realize, the excess carrier is under no duty to make a payment until the primary coverage has been exhausted. However, like most rules, this one is proved by its exceptions and has been quite a controversial subject.

It is sometimes argued by primary carriers that, their exposure being limited and the liability being doubtful, they are entitled to their day in court and should not be expected to forfeit their entire policy limits just because the injuries are bad and an adverse judgment might very seriously involve an excess carrier. What the primary carrier is really suggesting is that if the excess carrier is fearful of a very large verdict, it may escape that hazard by contributing to a settlement, even though the amount for which the case can be settled is less than the primary limits.

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[2] *American Casualty Co. of Reading v. Howard, et al.* (4th Cir.) 187 F. 2d 322.

[3] *Anchor Casualty Co. v. McCaleb,* (5th Cir.) 178 F. 2d 322, 325.

[4] *Denham v. LaSalle–Madison Hotel Co.,* (7th Cir.) 168 F. 2d 576.

[5] *Lumbermens Mutual Casualty Company v. McCarthy, et al.,* 90 N. H. 320, 8 Atl. 2d 750, 126 A.L.R. 894.

Such a suggestion has been described as being "morally wrong" and as having some of the characteristics of "hi-jacking or stealing." Those are strong words and perhaps do not give full consideration to the possibility that particular circumstances may have a bearing on what should be done.

As a rule, the position of the excess carrier is that the entire insurance coverage should be viewed as though it were one policy, that the primary carrier should value the case without reference to its policy limit and, if the sound settlement value equals or exceeds the amount of primary insurance, the primary carrier should pay its full limit before calling upon the excess carrier for a contribution.

We all have heard of instances where the excess carrier has made a contribution in order to close a potentially serious case, even though the primary carrier has not paid its limit. For example, suppose a primary carrier has a $5,000 limit and the excess carrier believes that the case, if tried, would probably result in a verdict substantially in excess of that amount. Suppose further that as the case approaches trial the demand drops to $5,000, but the primary carrier prefers to go through with the trial, feeling that it has nothing to gain by making such a settlement.

In such circumstances, excess carriers have contributed something in order to avoid the hazards of trial.

A similar problem was presented recently in a situation where the policyholder carried his own liability insurance up to $30,000 and had a direct excess contract above that amount. A fire loss resulted directly from the negligence of the insured and numerous suits were started. The policyholder refused to pay more than $15,000 to dispose of all cases.

Meanwhile, the excess carrier had made a special investigation; had come to the conclusion that a settlement of all cases for $30,000 would be most reasonable and believed that if the cases were tried the judgments might be twice that amount.

In this instance, the excess carrier contributed $15,000 which, together with the policyholder's $15,000, closed all the cases.

Some excess carriers absolutely refuse to contribute anything until the primary limits have been exhausted believing, as a matter of policy, that they cannot place themselves in a position where they may be called upon more and more to contribute in greater sums to the liability that properly should be absorbed by the primary insurance.

Also, it appears that excess carriers generally are reluctant to continue doing business on risks where the primary coverage is written in companies that are careless of their contractual and moral obligations.

The fourth and final question to be considered has to do with the right of an excess carrier to seek indemnity from a primary carrier.

Whether there is additional liability imposed upon the primary carrier which negligently or in bad faith fails or refuses to settle within the limits of its policy, is a question which first requires us to determine the duty of the primary carrier, that is whether it can be held for mere negligence or whether it is liable only if it fails to exercise good faith in its handling of the case. On that point, we shall merely refer to a series of splendid articles on that subject which have been published in the Insurance Counsel Journal during the last decade.[6] Those articles analyze the decisions throughout the country. The duty of the insurer is different in various jurisdictions.

Next we must consider whether the excess carrier has any greater responsibility to look out for its own interests than does the insured of the primary carrier to protect himself. The average policyholder is presumed to know little or nothing about insurance. He is held to a very slight degree of care, insofar as the protection of his own interests is concerned, as compared to the burden imposed upon his insurance company which is presumably skilled and experienced in the business at hand.

The excess carrier, however, had a greater field of knowledge and experience in insurance matters than has the insured and it may be that the courts will hold the excess carrier to a greater amount of care in safeguarding its own interests.

The third point that arises under this question is whether an excess carrier can take advantage of the ordinary rule that when a public liability insurance company

[6] "Conduct and Liability of an Insurer When the Claim and Judgment Exceed the Coverage," by F. B. Baylor, Vol. XI, April, 1944, page 7; "Preventing Liability in Excess of Policy Limits," by James Dempsey, Vol. XVII, January, 1950, page 39; "Excess Liability," by James Dempsey, Vol. XIX, January, 1952, page 44; and "Settle—Or Else!" by Charles F. Bachmann, Vol. XIX, April, 1952, page 142.

fully reimburses its insured for losses within the coverage of the policy, it becomes subrogated to the rights of the insured against third parties whose wrong doing caused the loss.[7]

The only reported cases located to date on this subject, come from the Tenth Circuit.[8]

In one of these cases[9] a declaratory judgment action was commenced by the primary carrier. The court said, "We are asked to consider whether in cases of questionable liability the excess insurer can force the primary insurer to pay its full policy limits in settlement on threat of liability for full amounts of possible judgments if the settlements are refused. The answer is no."

The court went on to say that the primary insurer owed the duty to exercise good faith in determining whether an offer of compromise of settlement should be accepted or rejected; that it owed the duty to exercise an honest discretion at the risk of liability beyond its policy limits.

But, the court said that the primary carrier was not required to prophesy or foretell the results of litigation at its peril. It said, "If it (the primary carrier) acts in good faith and without negligence in refusing the proffered settlement, it has fulfilled its duty to its insured and those in privity with it."

The other case[10] goes quite to the heart of the problem and deals with some most interesting procedural matters. American Bus Company had brought an action against American Fidelity and Casualty Company charging bad faith in the failure of that company to accept an offer of settlement in an action for injuries suffered by a bus passenger. On the first appeal it was held that the bus company was not the real party in interest because its excess insurer had paid the judgment over and above the limits of the primary coverage. The case was remanded to the trial court and the Security Mutual Casualty Company was substituted as party plaintiff. Proceedings of quite a summary nature followed and a judgment against American Fidelity and Casualty Company resulted.

Although a number of procedural questions were presented on appeal, the real questions there were (a) whether American owed any contractual duty to Security and (b) whether the right of subrogation obtained between the excess and primary carriers.

The court allowed Security to recover saying that, "American was allegedly guilty of bad faith while Security was at most guilty of breach of contract; and that, as between the two, it would be just and equitable for American to bear the loss occasioned by its own misconduct."

While no one would be so bold as to say that these two decisions set a pattern for the future, it is fair to suggest that the Tenth Circuit Court of Appeals has approached the problem on a practical and sensible basis. If the primary carrier violates its duty by failing to exercise good faith or ordinary care, whatever may be the rule, it probably will be held liable to repay to the excess carrier such sums as it has been required to pay as the result of the misconduct of the primary carrier.

MR. MOODY: Thank you, Bill.

There are two other interesting papers to follow on this open forum program. We still have a few minutes before a question and answer period. In case there are any pertinent questions you would like to put at this particular point, you have the opportunity to do so.

Well, apparently you were quite convincing. I find no questions and Harry LaBrum will introduce the following speaker on this program.

J. HARRY LaBRUM: To what extent is a defense lawyer obliged to demonstrate after the more than adequate verdict, that the verdict was rendered on the assumption of facts which experience later on prove untrue. Lee Bradford, who is of the firm of Dixon, DeJarnette and Bradford of Miami, Fla., is now one of the famous lawyers of the Southeastern part of the United States because he attempted to show that the facts on which a more than adequate verdict was secured, were incorrect by demonstrating that a few years after the accident, the person who was supposed to have

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[7] See, for example, *Globe Indemnity Co. v. Schmitt*, 142 O.S. 595, 53 N.E. 2, 790.

[8] *American Fidelity & Casualty Co., Inc. v. All American Bus Lines, Inc.*, 179 F. 2d 7, 190 F. 2d 234, certiorari denied, 342 U. S. 851, 72 S. Ct. 79, and *St. Paul Mercury Indemnity Co. v. Martin*, 190 F. 2d 455.

[9] *St. Paul Mercury Indemnity Co. v. Martin.*

[10] *American Fidelity & Casualty Co., Inc. v. All American Bus Lines, Inc.*, 179 F. 2d 7.

been permanently injured was not in fact permanently injured in the now famous case of *Miami Transit v. Edwards.*

Lee will try to show you why he did it, and unfortunately why he was unsuccessful as he tells me he was. It gives me great pleasure to present to you, Lee Bradford.

Comment on *Miami Transit v. Edwards* and to What Extent the Defendant May Go In Showing Recovery of Plaintiffs After Verdict

A. Lee Bradford

Miami, Florida

Mr. Chairman, Ladies and Gentlemen: It is a pleasure to meet again with good friends in such a beautiful place. It almost makes you forget the bad case you have to try when you return home, and the financial crisis you suffered on June 15th.

I have been requested to comment on *Edwards v. Miami Transit Company,* 60 So. (2d) 197 (Fla.), and to what extent the defendant may go in showing recovery of plaintiffs after verdict. I tried the transit case for the defendant and I know that one of the least interesting subjects to other lawyers is to listen to a fellow attorney telling about a case that he won or lost, so I will try to make my comments brief and to the point.

The plaintiff, a good looking little fellow four years of age was injured by a transit company bus while in the company of his mother on the way to Sunday School. It was claimed in the pleading, that the bus company was negligent (1) by closing the rear door on the foot of the plaintiff as he left the bus; (2) in failing to stop the bus close enough to the curb; (3) by starting the bus after the plaintiff had fallen. Defendant denied the negligence.

In our state, a four-year-old child could not be guilty of contributory negligence. The injury was severe in that it twisted the head of the femur and caused a separation through the epiphyseal area which retarded growth in the injured leg, making the legs uneven in length and probably resulting in osteoarthritis in the injured joint. The medical bills at the time of the trial were a little over $3200 with a possible operation in the future. The plaintiff will be able to engage in any professional work, office work, dance, attend college, and do anything not requiring heavy use of the leg. He wore a brace or cast for approximately three years prior to the trial. One of the doctors estimated the brace would be removed in about six months.

When the accident occurred, a witness was sitting a few feet from the street in a used car lot looking at the plaintiff and his mother when they left the bus. He stated that the child had cleared the bus, the driver had closed the door and started forward when the child slipped off the curb as he attempted to go toward the rear of the bus and fell under the rear wheel. The rear wheel jammed the child's leg against the curb. We had a beautiful statement from this witness but due to unforeseeable circumstances he could not attend the trial. He died one week after the accident.

We had a beautiful statement from a woman passenger sitting in the first seat back of the rear door and over the wheel where the boy was injured. She stated that it was not the driver's fault and he did not close the door on the child's foot. Her statement was in substance the same as the used car salesman's. The investigating officer found the mother at the hospital shortly after the accident. Her statement to the officer was the same as the other two witnesses.

The driver of the bus testified that he had mirrors in the bus so arranged that he could see the ground approximately

15 inches outside the rear door and that he did not start the bus until the child had left the rear door and passed beyond the range of his vision. He moved the bus only four or five feet, intending to pull out in traffic, when he heard a scream. He stopped the bus and found that the child had been injured by the rear wheel.

Under our rules, a party may, on satisfactory showing that he is unable to obtain names of witnesses, require the adverse party to furnish names and addresses of witnesses. On application of plaintiff's attorney, the court required the defendant to furnish the plaintiff with names of witnesses of the defendant.

A passenger in the seat forward of the rear door had given the defendant's investigator a statement that the bus driver closed the rear door on the foot of the child. His story was questionable because the accident happened behind him and it was doubtful that he could see what he claimed to have seen from the position he occupied.

The plaintiff's attorneys then took the little boy in his brace and his mother out to the house of the witness who had been sitting immediately behind the rear door, one night just before the trial and by the time of the trial, she was not a witness for anyone.

It may be interesting to you that in the trial of this case, the plaintiff called a doctor who produced drawings or reprints of x-rays of the hands, showing the bone development of children from about three years of age to ten years of age. Then the doctor produced x-rays of the plaintiff's hands and showed the retarded development of the plaintiff. Where development is retarded, the bones in the hand do not form as quickly so that when they compare the x-rays of a seven-year-old child whose development has been retarded, his bone development may compare favorably with the normal child four or five years of age.

The jury returned a verdict for the plaintiff in the amount of $141,000 and a verdict in favor of the father in the amount of $25,475. The boy's verdict invested at 3 per cent would yield over 4,200 a year without even touching the principal, or would buy an annuity to begin payments at the age of 21 until death, paying $533 per month. The father had $21,800 above expenses to the date of trial and the income of the child's $141,000 for 14 years giving him a total of about $81,400 because he is entitled to the services of his son during minority.

On appeal, we raised the question of the lack of proof as to the negligence claimed. We assigned as error, the refusal of the court to permit the jury to view the bus that was brought to the court house, particularly in view of the fact that the court let in photographs posed by plaintiff's attorney showing his foot and fist between the rubber buffers on the edge of the door. We wanted to show that it was impossible to catch a child's small foot in the rear door when closed because of the rubber buffers on the edge, and we wanted to show the view of the driver by the arrangement of the mirrors.

We also assigned as error, a statement of the adverse witness made to the driver after the accident, to the effect that he thought it was the driver's fault. On motion for a new trial, the court admitted that he was in error in letting the witness testify as to the statement the witness made to the driver after the accident but refused to grant a new trial. There are two Florida decisions holding it to be a reversible error to permit such testimony and I know of no contrary opinion. The other question was excessiveness. The Appellate Court did not consider the questions raised on appeal worthy of any comment. The case was affirmed without opinion.

I have with me here some of the exhibits introduced in evidence by the plaintiff's attorney, in case some of you are interested in looking at them after the morning session.

I must state that a great deal of credit should go to the firm of Loftin, Anderson, Scott, McCarthy and Preston, associate counsel, for their activity in gathering the information contained in the petition for rehearing.

In an appendix attached to the petition for rehearing consisting of 29 pages, the Supreme Court was apprised of the recent activities of plaintiffs in cases involving large verdicts of large settlements in Miami, Florida, because plaintiff's counsel referred to these cases in their brief on appeal in arguing that the verdicts were not excessive.

Upon investigation of the injured plaintiffs, startling information was discovered.

I will not attempt to give you in the short time allotted to me a resume of all

those cases, but I will refer to a few of them.

One of the cases was settled for $52,000 and some odd dollars during the trial. It was claimed that the plaintiff was crippled for the rest of his life. He had suffered brain deterioration which would become progressively worse, requiring institutional care and confinement. His earning capacity had been completely destroyed, he had been a bulldozer and dump truck operator before his accident. After settlement, he purchased a new dump truck. He was operating a bulldozer; he purchased a new home and a new automobile.

When checked a second time six months after the first check, it was found that he was continuously working, driving his own dump truck, hauling crushed rock.

In another case where it was claimed that the plaintiff had suffered a ruptured intervertebral disc, injuries to his nervous system, and that his injuries were permanent and that he had suffered total disability and will be unable to engage in any further remunerative work, it was found that he had resumed his former occupation as a painter, and that he had purchased a new Cadillac.

Another case was investigated where an employee of a municipality was injured, which was settled while on appeal from a $74,305 verdict, for $60,000. It was contended that he would not be able to resume his employment because of the injury. Upon checking on this plaintiff, we found that he had resumed his former employment, he had received a substantial increase in pay, and had an interest in a filling station where he worked regularly after he completed his day's work for his former employer.

In another case where it was represented that the plaintiff had a brain injury and that disability was total and permanent as a result of which he would be confined in an institution, or hospital for feebleminded and mentally deranged persons. The case was settled for $65,000 before trial. The plaintiff represented in that case that the loss of earning amounted to approximately $175,000. On investigation, it was found that this man was able to get along without the use of a crutch or a cane and that he had not returned to work but he was a regular horse track attendant.

Another case was settled for $76,000 while on appeal to the supreme court from a $100,000 verdict. Testimony of a neurosurgeon called by the plaintiff, in substance, was that this man had suffered destruction of brain tissue, he was nervous, had headaches, nausea, vomiting, blackout spells, and that he was totally incapacitated, and that there was nothing known to medical science which would restore the permanent brain injury. The doctor also testified that it was likely that this man would get gradually worse and may have to have a nurse or companion in attendance constantly, or he may have to be institutionalized. Upon investigation of his activities after the settlement, it was found that he owned and operated a large semi-trailer truck, making long hauls from Florida to New York, doing the same type of work that he had done prior to his injury, and that he and his wife operated a market where he worked between trips.

Many pictures were made of the activities of the persons being investigated, some attached to the petition.

The court denied our petition for rehearing in the following language: "Denied."

I see that some of you have moved a little forward in your seats, and I recognize the sign in your eyes. I know that you are not spellbound by my recital of events—you are only waiting to tell me about a case that you won or lost.

My subject may be divided into three parts, and the next part concerns cross-examination of plaintiff's doctors as to recovery of patients in other cases where they have previously testified that other plaintiffs were permanently disabled. This subject has been discussed pro and con ever since damage suits became a profitable enterprise for plaintiffs. You who have been exposed to the well trained, organized machinery that is used in the courts for what they term "adequate awards" can well appreciate these doctors who specialize lately in this field of medical practice. You know that this specialty is confined to a few doctors. Occasionally there are other doctors who participate in cases where plaintiffs obtain large verdicts but usually you have a few doctors in larger communities that the plaintiffs count on. A combination of one or two in each case. They use one combination in one case and another combination in another case, but some of them are used in all cases.

In all serious injury cases the plaintiff's attorneys call a conference of their doctors a day or so before the trial. They have a

round table discussion of the injuries, symptoms, complaints, findings and opinions and they decide how far each of the doctors will go and what part he will play in the pattern of the medical testimony that is being formed. Some plaintiffs' attorneys have a doctor who is admitted to practice medicine and who is also a lawyer. He devotes his time to the medical aspect of their cases. The day may not be too far distant when we may have to employ a physician to sit in the courtroom with us to assist in the examination and cross-examination of medical experts.

If those doctors repeat frequently, and if they are frequently wrong in the big cases where large recoveries are made, after securing transcripts of their testimony in the various cases and after being sure that you can prove the miraculous recoveries, you are in a position to slug it out with them, toe to toe, when they are on the witness stand. But unless you have their testimony available and the proof as to the miraculous recoveries, I would advise great caution in examining these doctors. As a rule they are well founded in their profession and they are clever witnesses. They would not be on the stand if they were not qualified in these respects. If you lead with your right and you miss the target, you are liable to wake up in the dressing room, bleeding, so in my opinion it is inadvisable to cross-examine one of these doctors regarding other cases until you are loaded. After obtaining the required information, it is my opinion that you can run him out of the expert field in such cases, or destroy him to the point where he will not be effective and will either quit or be discarded by the attorneys using him. This investigation takes time, and, unfortunately, costs money. Many of your clients cannot afford the cost or will not spend the money to furnish you the ammunition. However, it is something that should be explored further and used more often.

Our courts allow a wide latitude in cross-examination of an expert witness; *Eppinger and Russell Co. v. Sheely*, 24 F. (2d) 153:

> "On the one hand, the right of the cross-examination should not be unduly limited; but, on the other, it should not be extended beyond the bounds of reason, or to matters that are not relevant to the issues involved in the case. Much must be left to the discretion of the trial court."

Pensacola Electric Co. v. Bissett, et al, 52 So. 367 (59 Fla. 360):

> "2. EVIDENCE (Ss 558)—Cross-examination of Expert Witnesses.
>
> An expert witness who has given his opinion upon any question or hypothesis submitted to him may be further interrogated upon his cross-examination as to the reasons for such an opinion. And for this purpose it is within the discretion of the trial court to widen the range of such cross-examination, even so as to include matters not strictly pertinent to the issues, in order to test the witness' means of knowledge, the extent of his information, memory, accuracy, or credibility, and an appellate court will not interfere with the exercise of such discretion, unless a clear abuse thereof is made to appear."

(Ed. Note: For other cases, see Evidence, Dec. Dig. Ss. 558).

Recently, one of my friends in a nearby city called to inquire about one of our local doctors who frequently testified for plaintiffs. I could not give him all the information he requested. He contacted the local clerk's office and obtained the information he desired from the clerk. He obtained a record of all the cases in which the doctor had testified over a given period. On cross-examination the doctor made the serious mistake of telling the jury he testified for both plaintiffs and defendants. I am not advised as to his exact testimony but I was given to understand that he implied that he was in court as frequently for the defendant as for the plaintiff. The defendant's lawyer then proceeded to mention the cases the doctor had appeared in for both plaintiff and defendant over the given period and on totaling the cases it was found that the doctor appeared in one or two cases for the defendant and he had appeared in twenty-odd cases for the plaintiff. He was then asked how much he was getting paid to testify in the particular case, to which he replied, $500. It was a serious case from a defense point of view. The jury returned a verdict for the plaintiff for less than the amount the plaintiff had agreed to pay this doctor to testify and it was felt that the cross-examination of the doctor had a definite bearing upon the results of the case. The lawyer cross-examining this doctor had nothing to lose because in all probability the doctor will never appear in that com-

munity again as an expert and needless to say, that doctor will never get caught on the same line of attack.

If the same doctor appears frequently for the plaintiff, you may find that he has qualified himself in several fields of specialization. If he tries to cover too many fields of specialization, particularly if they are not related fields you may interrogate the doctor regarding his previous testimony in other cases where he has claimed to be a specialist in other fields. A defendant's attorney should always study his medical problems, confer with experts and decide before he cross-examines the plaintiff's doctor, what questions he should ask and how far he can go on cross-examination. If you can find where the doctor is in error on any point during direct or cross-examination, that point should be stressed. It would likely cause the jury to lose faith in his testimony, or at least it would detract from anything else that doctor may have to say.

One should be careful in stressing that a physically handicapped plaintiff may be able to engage in professional work such as orthopedic work or some specialized field of medical practice. If the doctor is accustomed to testifying for plaintiffs he or the plaintiff's attorney may bring out one of those famous "Yes but" answers, and get before the jury a statement to the effect that it would consume a minimum of ten years and cost thirty or forty thousand dollars to acquire the technical training.

In our state, the plaintiff may produce as many doctors as he desires. The defendant, if he cannot get a voluntary examination, must apply to the court for an order appointing a physician to make an examination. Only in rare cases is the defendant permitted more than one examination; for instance, a serious operation or radical change in the plaintiff's condition may entitle the defendant to a further examination; however, this is a discretionary matter. In some instances where the injuries claimed involve different fields of specialization, the court appointed physician may state that other complaints are made outside of his field of practice and upon such showing the court will appoint another physician to cover the other complaints. The plaintiff usually capitalizes on the medical testimony where there is a conflict in the opinions of the plaintiff's doctor and the defendant's doctor by commenting to the jury upon one examination which consumed a half hour or an hour by the court appointed doctor, whereas the plaintiff's doctor has seen and treated and examined the plaintiff on many, many occasions.

I would like to digress at this point for one moment to mention something that has come to my attention recently, and these remarks are directed more to home-office men who are present. What I am about to say is not in criticism of any person or company, it is not directed at any person. The remarks are made with the hope that you will better understand the problem of your attorneys in the field, and in the future make a greater effort to furnish the munition necessary to fight the more serious cases. We all know that something must be done to cut casualty losses, but in my opinion the comparatively small savings that may be made in investigations and for defense attorneys' work, is not a saving that will produce the desired results. Frequently we do not get reports of accidents for many days after they have happened; in many instances, the plaintiff's attorneys have many statements, they have obtained pictures and laid the groundwork of their investigation before the companies are notified of the accident. The adjusters have a large number of cases assigned to them each month, they frequently do not devote the time required to a serious injury case. The day has come when one attorney cannot try one of these cases by himself, he must have an assistant to arrange for the attendance of witnesses, so that there will be no delay, when they are called as the case develops. Some point may be raised that would require further discussion with the defendant's witnesses. The jury would not like the delay, and some of the judges are not too gracious in granting delays or recesses to enable the lawyer to talk to witnesses or to get them to the courthouse. Therefore, the costs of defendants is ever increasing. We are aware of the story in the Bible as to how the boy with the sling-shot conquered the giant. What we must realize today is that the giant now has a machine gun in place of a shield. It is not the cost of investigation and attorneys' fees that makes the red ink of the casualty company so expensive, it is the large verdict that makes the ink expensive. Therefore, we must be better equipped by having better investigation, spending more time on medical problems

and by the lawyers spending more time on the cases. There is no comparison between the trial of a suit today that may involve one hundred or two hundred thousand dollars, and the trial of a case 15 years ago, where the same injuries may have produced a verdict of ten or fifteen thousand dollars.

The Third Part of my subject concerns production of evidence before the Appellate Court to show sudden recovery after a large verdict for the plaintiff. I am sorry to say that in my 24 years of practice I have not found a legitimate way to get such matters before the Appellate Court. We were only able to get this matter before the court in the *Edwards* case because it was in reply to the cases referred to in the plaintiff's brief.

In my state there is no such thing as a trial *de novo* before the Appellate Court. The record must be certified and presented to the Appellate Court and they usually criticize counsel for going outside the record. I have heard attorneys make effective remarks (outside the record) before the Appellate Court and even draw a rebuke from the court, but on occasions they have accomplished the desired results. We who have been in business for a long time know that it is not advisable to antagonize the court and you are gambling by going outside the record. The courts are not as a rule bound as they were years ago, but this is one rule that is adhered to and is usually embarrassing to the trespasser.

We know from experience that frequently the plaintiff lets down and celebrates after a large verdict. The best time to catch him off guard is following his big win. There should be some way of preserving this information and presenting it to the court that ultimately decides the case. About the only use we can get from these investigations (outside of future use against the doctors who testified that the party is totally disabled) is preservation for a future trial in the event of reversal. We sometimes do work in this direction that accomplishes no useful purpose.

The lawyer in defense work today reminds me of the old story about the little boy who put his finger in the hole in the dyke to hold back the water until help arrived. At times I have the feeling, that I am the little boy grown up, but now instead of having my finger in the dyke wall, I am standing in a valley pointing upstream—the dyke walls are gone.

The only antidote I can recommend is get a good night's sleep and slug the other fellow the next day. (Applause).

L. DENMAN MOODY, Chairman: I think you will agree with Lee. Perhaps some of you men would like to comment during the few moments that we have left, is there anyone here who would like to talk about his case? This is your opportunity.

Now, this is a fine bunch of lawyers! Out of the entire room there isn't one who would like to talk about his case.

We have a case, as a matter of fact, it was to be held this morning in Pennsylvania. It happened that a man shot and killed a policeman in Philadelphia, and pleaded guilty and the court sat in judgment on it and they accepted the testimony of a psychiatrist that the defendant was sane at the time of the killing. Within six months after that sentence and that report of that psychiatrist, the psychiatrist was sent to a mental institution himself. (Laughter).

And today, the lawyers for the defendant filed a petition asking the District Court to grant *habeas corpus*, it is being heard today, it is claimed that no sane person could come to the conclusion the psychiatrist came to, and at the time of the trial, the defendant was insane.

Now, if it is true in criminal cases, why couldn't it also be true in civil cases, where after a trial it is demonstrated that injuries complained of were not in fact sustained. It seems to me that something should be done. I don't know what to suggest, but perhaps next year we can have a forum on that particular question. Now, there being no lawyer who wants to speak about his case, I will present Laurent K. Varnum of Grand Rapids, Mich., who will introduce the next speaker.

LAURENT K. VARNUM: I would like to tell you about the case I had once, but that's not what I am here for. I am here to present the next speaker on this program. Perhaps many of you heard him last year at San Francisco. If so you know you are in for a real treat, because this man has had the toughest opposition and experience in the field. Our speaker has been a member of this Association since 1948. It gives me great pleasure to present to you at this time Wallace E. Sedgwick, who will speak on the subject of "Demonstrative Evidence in Court." (Applause).

Demonstrative Evidence

WALLACE E. SEDGWICK
San Francisco, California

JUST to prove that I can talk like a lawyer, let me say "I want to keep the record straight." I would like to believe I was asked to speak to you on the subject of demonstrative evidence because some very intelligent people like Denman Moody actually believe I know something about it. However, I fully realize I have been given the very real honor of appearing before you for just one reason. The most active and enthusiastic exponent and lecturer on the use of demonstrative evidence in personal injury actions practices in my home town. Therefore, of necessity, I have considerable first-hand knowledge of his techniques—with scars on my back to prove it—and some people feel that from these exposures to demonstrative evidence a bit of the magic should have rubbed off onto me, and that I should have learned at least a little something from these experiences.

Demonstrative evidence has been well defined as a superior substitute for words. The term has recently become something of a catch phrase, and attracted widespread interest among persons interested in the field of personal injury litigation. There is nothing really new about the use of demonstrative evidence, but its use has received terrific impetus and acceleration during the past few years, and the manner and extent of its use has been greatly changed and increased.

Its first reported use in the U. S. was a photograph, or reproduction, which appeared in the Federal Reporter in 1882 in *9 Federal 879*. This was a railroad case, and a photograph of the ticket was used in evidence at the trial and reproduced in the Appellate Report. The first diagram to appear in a Federal reported case was in 1900 in *105 Fed. 250*. This was a death action in which a diagram of a ship's hatch was used at the trial and reproduced in the Appellate Report.

A search of the old reports reveals that the first real use of demonstrative evidence was in patent cases. This was followed by its use in admiralty cases and then in litigation involving mining claims. Its original use was largely limited to cases involving real or personal property and it was primarily used in property damage actions. The use of demonstrative evidence was slow to appear in personal injury cases and actually was first used in about the year 1900. Curiously enough its use developed rapidly during the period 1900 to 1912, but for some unknown reason after the start of World War I the use of demonstrative evidence in personal injury cases practically died out entirely, and was really not revived to any great extent until the middle 1930's.

In examining the reports for examples of the use of this type of evidence, it is quite interesting to note that during the early days it was most frequently used in those states covered by the Northwestern reporter system. This type of evidence was frequently mentioned in the Southern reports, but was almost non-existent in the Atlantic reports. The first case appearing in the Northwestern reports was in 1885 in *12 Northwestern 332*, involving a death at a railroad crossing. A diagram of the railway and the highway crossing was used at the trial and referred to in the Appellate Report.

In personal injury litigation this type of evidence was first used in railroad and admiralty cases, but its development in automobile cases was curiously slow. Demonstrative evidence has for a long time been freely used in condemnation cases, and again, its development in that field for many years far exceeded its development in personal injury litigation.

Times have changed, and we are now faced with what virtually amounts to an epidemic and wide open race in the use of such evidence in every conceivable manner in personal injury cases. This is particularly true on the West Coast, and is spreading rapidly to other areas of the country.

In reviewing the earlier decisions on cases involving use of demonstrative evidence, one is immediately impressed by the fact that it was used far more extensively by defendants than by plaintiffs. Today the reverse is true, and the emphasis by plaintiffs' attorneys on its use is primarily in the field of damages, although now they are using it more extensively than before to demonstrate alleged facts in con-

nection with the issue of liability. Mr. Melvin Belli of San Francisco, an able and imaginative plaintiffs' lawyer, has probably done more than any one other person to promote the greater use of demonstrative evidence among plaintiffs' lawyers in achieving what he terms "more adequate awards." He has conducted demonstrations and given lectures on this subject throughout the country for the past several years, and has spent a large portion of his time during the past year in writing a book on demonstrative evidence. I understand it will be quite a thorough treatment of the subject, complete with numerous illustrations and actual examples of various types of demonstrative evidence, and the methods of its presentation. This book is scheduled for completion towards the end of this year, and undoubtedly will receive wide circulation among members of the plaintiffs' bar, and probably will be required reading for all of us as well.

From the plaintiff's standpoint the principal use of demonstrative evidence is on the damages portion of the case. The basic theory is "one picture is worth 10,000 words," and the recognized truth that impressions received through the eye are many times stronger and more effective than impressions received by ear. Some experts have estimated that visual impressions of the same fact are eight times stronger than the audible impression. To have the attending physician testify that plaintiff received a compound, comminuted fracture of the tibia and fibula is effective, but more effective is to show the x-ray of the fractures to the jury by use of the shadow box, a procedure which has been standard for many years. Now further steps and techniques along the same line have been perfected. There has been some experimentation with positive prints of the actual x-ray negative. This technique has not proved particularly satisfactory as yet. However, another method has proved to be much more effective, and is called the reproduction of an x-ray negative. The method used is to put the x-ray negative in a strong shadow box and then photograph it. Prints are then made of that negative and these three photographs (Exhibits 1, 2 and 3) are illustrative of how they appear. You can see that it is far more effective and much easier to see than an x-ray in a shadow box, and has the added advantage or disadvantage that it can be passed around to the members of the jury and even taken into the jury room with them if they so desire. It is also easier to use such photographs in an argument than to use x-rays. Of course, this technique can also be used when x-rays show complete healing of fractures or the absence of any bony injury.

Another technique along this line is the medical illustration of fractures and other types of injuries drawn by an artist, usually employing various colors and attempting to visually reproduce the injuries sustained as shown by x-rays or testimony of medical experts.

(Exhibit 4). Here is an illustration of an actual drawing made of an x-ray which was admitted in evidence in the U. S. Northern District Court of California. Many such illustrations have been admitted in evidence, and many more have been rejected. It is my personal opinion that only in rare cases are they admissible, and most courts still refuse to allow such drawings in evidence. However, it is becoming an increasing problem, and this photograph of the drawing illustrates the visual exaggeration of the fractures involved.

The blackboard has become an important tool of the plaintiffs' lawyers craft. It is not unusual for some lawyers to require the use of several blackboards even for the ordinary, uncomplicated accident case. At the outset of the trial in plaintiff's opening statement many lawyers now list the names of the witnesses to be called, claimed elements of general damages and the items of special damages alleged. Following this the sides of the blackboards are rapidly filled with large photographs, drawings and diagrams, all to the purpose of keeping this information and data in the sight and mind of the jurors during the entire trial. This type of presentation is as readily available to the defendant as to the plaintiff, particularly as to matters relating to the issue of liability. As soon as the plaintiff rests his case the defendant can start taking down the plaintiff's pictures and diagrams and replacing them with his own. Of course, when the defendant rests, the process can be immediately reversed, but at least it changes the scenery for part of the time.

Here are two typical illustrations of a type of demonstrative evidence which is now in common use and greatly relied upon by many plaintiffs' lawyers on the question of the measure of damages. This first photograph is an illustration of the

use of the blackboard during plaintiff's opening statement, prior to the actual taking of testimony. There is a modest request in this illustration for the sum of $106,600. (Exhibit 5).

The second photograph (Exhibit 6) is an illustration of demonstrative evidence on the issue of damages as used in the plaintiff's closing argument. It is an attempt to set up a formula and list the items of damage in such a manner as to suggest to the jury that there is some scientific and rational approach in arriving at an exact, reasonable conclusion as to the amount of damages that plaintiff should receive. The result here is a request for a mere $254,859. Note the request for damages for pain and suffering at the rate of 1½ cents per minute for 6,441,120 minutes, which is the alleged period of life expectancy. So far as I know there is no legal, rational or logical basis for such a formula, yet its use is becoming almost universal. This can be effectively pointed out to a jury and in addition the fact that the figures used by plaintiff's attorneys vary even under their own type of formula from $1.00 a day to as high as $50.00 a day, depending upon just what figure they feel will make the best impression in a particular case. Oftentimes it is possible to show just how ridiculous this method of approach is and, by the use of a little exaggeration for illustrative purposes, fantastic results can be achieved. Further, it is a fact that in order to pay a person $1.00 a day for pain and suffering, the actual amount of money necessary to yield $365.00 a year at 6% interest is only $6,833.33. This payment can go on indefinitely as the principal is not touched. Another interesting illustration along the same line is that to pay a man $1.00 a day for 10 years, the present value of the amount of money necessary to do so, using up both principal and interest during that 10-year period at the rate of 5% interest per annum is only $2,888.13.

To illustrate to what ridiculous extremes this type of computation can lead, it is interesting to call attention to what actually happened in a California case which I believe resulted in the highest money judgment ever rendered. In the case of *Stuart v. Jones,* in the Superior Court of Santa Clara County, judgment was entered on March 6, 1922 in favor of the plaintiff for $304,840,332,912,685.16. Jones bought some feed from Stuart on January 18, 1897. Jones signed a $100 note payable to Stuart and gave it to him as security for the feed bill. The note bore 10% interest per month, compounded monthly. Stuart finally sued on the note and judgment was entered for the above amount. What an opportunity for a field day of demonstrative evidence to figure out on a blackboard the amount to which plaintiff was entitled. However, the final result of this litigation brings us back to earth and sanity, and might be used as a parallel illustration of what practically and usually happens. The records show actually $19.69 was paid on the judgment.

The presence of the complete neurological skeleton, or even just the skull that comes apart in sections, is becoming routine but its effect upon the jury is questionable and actually I feel it usually does more harm than good to the plaintiffs' case. During one rather extended trial the defendant's lawyers got in the habit of calling the skeleton "Oscar," and before many days had passed everyone was referring to it as "Oscar," and doing more laughing about it than giving it serious attention. In another case when the cloth cover was removed from the skeleton by the plaintiff's attorney during his argument, some jokester had placed a cigarette in the skeleton's mouth, and the ensuing grins by everyone in the courtroom did little to add to the effectiveness of the argument. This maneuver is not recommended as standard procedure.

It is my personal opinion that extensive use of demonstrative evidence to illustrate the nature and extent of injuries and the elements of damage claimed more often than not backfires, and helps the defendant more than it does the plaintiff. People generally resent anything in the nature of a show or stunt in a courtroom. Exaggerated presentation of evidence on damages is an attempt to influence jurors by a rather obvious appeal to passion and emotion. This fact can easily be explained and demonstrated to the jury by the defense attorney and often results in a certain amount of resentment towards plaintiff's attorney for the use of such methods of appeal.

Posed photographs taken for the purpose of illustrating to the jury the circumstances under which the accident occurred are usually inadmissible as self-serving unless proper foundation has been laid showing the persons, objects and situations por-

trayed are faithfully represented. Motion pictures taken after an accident to illustrate the swaying of a car were held admissible. (159 Atlantic 916).

This picture is an illustration of a technique growing in popularity of using what practically amounts to an aerial photograph in place of a diagram. Experience has shown that witnesses are better able to place themselves and objects on an actual picture where they can visualize the locale of the accident than they can on a plain engineer's diagram. We all know how often even intelligent witnesses are confused by the various lines and colors on an engineer's diagram.

This is another illustration of the aerial view technique showing an intersection. It is used either in place of a diagram or to supplement one.

Here is an illustration showing all the demonstrative evidence used in a case where a new automobile suddenly veered off the highway by reason of a mechanical defect in the front end assembly. All the objects and illustrations shown in this photograph were admitted in evidence, and explained by experts before the jury, who otherwise would perhaps have had difficulty in understanding the mechanical problems involved.

This is an aerial photograph used to illustrate the positions of witnesses on the highways and in surrounding homes who heard a siren. It was a dramatic and effective method of presentation to demonstrate that the siren was clearly audible to persons located in all directions, and at varying distances from the scene of the accident.

This is an illustration of evidence used in an elevator case wherein the entire elevator door and mechanism was brought into the courtroom in actual size, with particular reference to the doors and interlocks which were claimed to be defective. Here also can be seen the familiar neurological skeleton, an enlarged photograph of the inter-lock itself, and a cutaway model of the entire elevator shaft to show the relative distance of plaintiff's fall.

This photograph illustrates an on-the-spot photograph obtained by plaintiff's representatives showing an automobile that ran into a scaffold upon which a man was standing, causing him to fall. The side photograph shows the front of the automobile actually touching the bottom brace of the scaffold. This also illustrates another now generally recognized fact that representatives of plaintiffs through union organizations and other means now are often at the scene of an accident first and obtain the physical evidence before the defendants. This was not true some years ago, but it is a recognized problem today.

This photograph, in addition to showing another "Oscar," shows a scale model of a highway curve complete with guard rails, model automobiles, and a model truck and trailer to illustrate the manner in which it was alleged the trailer of the truck jackknifed causing the injuries complained of. In this case witnesses actually demonstrated with the model vehicles what they observed. This is a very effective manner of presenting testimony.

This reproduction illustrates a technique now being used in appellate procedure which has proved effective. It sets out graphically the various types of injuries alleged and is calculated to attract the attention and interest of the appellate court judges and highlights the items of damage claimed. It is another example of the use of a diagram to attract attention and make a stronger impression.

These two photographs are another illustration of the use of pictures in appellate practice. They show a young boy before and after the accident, and show the appellate court more graphically than any words the actual nature and extent of the injuries sustained.

This is a rather startling medical drawing to illustrate what actually happens when a spinal puncture is performed. To most people the mere term "spinal puncture" has little meaning, but an illustration such as this has considerable emotional appeal. To show a large steel needle inserted through a portion of a person's body makes a stronger impression than any technical description of the procedure.

The next four photographs demonstrate a most interesting use of demonstrative evidence by the defendant. This was a tow truck automobile accident on a curving mountain road in a snowstorm. Three independent witnesses testified the tow truck came around a turn too fast and its rear end skidded across the two-lane highway so that it was broadside, and the car coming from the opposite direction ran into the rear end of the truck. By reason of immediate cooperation between the local claims man and attorney and qualified experts a piece of chrome was found imbed-

ded deep in the left front tire of the truck as shown in this photograph, and little pieces of glass were found on a shelf behind the front bumper. By scientific analysis and painstaking matching of metals it was proved to the satisfaction of the jury that it was a head-on collision instead of as described by the witnesses.

Diagrams in accident cases are freely used by both sides, but often are also freely misused. We have all seen numerous examples of a beautiful scale diagram being placed on the blackboard and after five or six witnesses have drawn in vehicles, trees, pedestrians, etc., each one being marked and several being drawn one over the other, it presents the appearance of little more than a child's crayon drawing and becomes completely unintelligible to lawyers, litigants and jurors alike. I have perhaps exaggerated a little to illustrate my point, but if the use of a diagram is of value at all it is worth trying to preserve it in such a condition that the points desired to be demonstrated are recognizable. There are usually only a few key points which should be put on the diagram, but too often it is so cluttered up with x's, lines, circles and drawings as to be almost meaningless at the end of the trial. It is suggested that fewer marks be made upon the diagram and there is no reason why several diagrams cannot be used in the same case. Certainly there is considerable advantage to the defendant producing a fresh, clean diagram at the close of the plaintiff's case so that defendant's witnesses will not be influenced and confused by the marks already placed thereon by plaintiff's witnesses. It has also proved effective to use a separate diagram for a particularly strong or important witness. Another suggestion along the same line is to provide two photographs instead of one where it is intended to have witnesses make several marks upon a photograph, so that one is unmarked and the various important points shown by it are not obscured or drawn over by markings and initials.

The foundation for many types of demonstrative evidence must or should be obtained immediately after the accident or event. Photographic evidence as to the nature, extent and location of damage to vehicles or structures must be obtained before repairs or changes are made. Other types of possible physical evidence should be immediately preserved and properly identified. Such evidence may form the basis for scientific tests, experiments or observations that may be valuable as a foundation for later expert testimony and opinion.

Historically courts have been reluctant to permit drastic expansions in the field of expert testimony, but advances in the art of proof and demonstration of scientific testimony have greatly enlarged the scope of its use so that now its limitations are largely limited only by the resourcefulness and skill of the lawyer and scientist involved.

Elaborate scale models of highways, bridges, buildings, grades, railways, trains, ships, trucks and automobiles are being used with increasing frequency and effectiveness.

Experiments made in court before the jury have been frequently admitted although extreme caution is advisable. It must be shown that the conditions and circumstances under which the experiment is made are substantially similar to those shown to have actually existed in the case.

Tests and experiments have been used successfully to demonstrate the cause and result of a failure of certain parts of an automobile and other types of machinery, the strength and weight bearing load of structural members, the comparative coefficient of friction of numerous types of articles and surfaces, the extent to which certain sounds could be heard, to show whether or not a shoe could get caught in a railroad switch, to prove that a saw could not throw lumber in a particular direction, and to show that certain liquids could not cause burns as alleged.

To show that a person has been paralyzed by an injury, his loss of feeling may be demonstrated by thrusting a pin into that portion of his anatomy alleged to be paralyzed. *Osborne v. Detroit,* 32 Fed. Reports 36.

To demonstrate the trembling of his hand, a person may attempt to drink a glass of water or attempt to write. *Clark v. Brooklyn R. R. Co.,* 79 N. Y. Supp. 811.

Experiments with a model of the apparatus by which the injury is claimed to have been inflicted are admissible to show how an accident occurred. *Pennsylvania Coal Co. v. Kelly,* 40 Northern 938.

A very startling result was recently obtained in a case by the use of an oscillometer to visually demonstrate to the jury that claimed impotency was due to an occluded aorta, and was not the result of a

laminectomy. The oscillometer showed almost imperceptible palpitations when tested on the plaintiff, but extremely strong palpitations when tested on the attorney. The jury unanimously decided the impotence was caused by the occlusion which caused reduced blood supply in the lower part of the body, and not by nerve root injury in the spine as a result of the accident.

Scientific demonstrative evidence is evidence of the highest type and when intelligently employed with a little imagination may lead to the discovery of important facts not otherwise ascertainable and is also extremely valuable in the forceful and persuasive demonstration of such facts to a court or jury. It is as readily available to the defendant as to the plaintiff.

Is there danger of demonstrative evidence defeating its own ends? Will civil jury trials become so lengthy, cumbersome and expensive that other methods of adjudication will be employed to handle personal injury and accident litigation? I hope for many reasons we never see that day arrive, but perhaps the danger is real enough to merit our earnest consideration.

It is my frank opinion that we are entering and are now in an era where the use of demonstrative evidence may almost be called a "fad," and that although its proper, restrained and intelligent use is of extreme value, excessive and over-enthusiastic use of such evidence is detrimental and may defeat its own purpose.

Demonstrative evidence when used as an appeal to the emotions and to exaggerate certain conditions and to inflame the minds of jurors, is unsound and serves no useful or proper purpose. However, when such evidence is used to demonstrate actual physical or scientific facts, or aids the ascertainment of the truth, then demonstrative evidence serves a sound and meritorious purpose and is of real value in promoting the ends of justice.

L. DENMAN MOODY, Chairman: Now I will close the meeting, that's all for today, it is adjourned till 10 o'clock tomorrow morning.

GENERAL SESSION
June 30, 1953

RICHARD B. MONTGOMERY, JR., Vice Chairman: We only have one speaker today. He has a great deal to tell us, Hubert Winston Smith, M.D. LL.B.

The address of Hubert Winston Smith, LL.B., M.D., Austin, Texas, professor of Law and Legal Medicine and director of the Law-Science Institute of the University of Texas, consumed the morning session. Your Editor regrets to announce that the reporter who reported the meeting did not attempt to record this address, or any part thereof, as the auditorium was dark at intervals during the address, and also when Dr. Smith was showing slides of parts of the human anatomy, particularly the exposed brain. When asked for a copy of the address, Dr. Smith advised that he did not have a manuscript but would try to have a copy available for the October, 1953 or January 1954 issues of the Journal.

MR. CHRISTOVICH: It is always a happy occasion when we have the opportunity to hear an address from a man who speaks authoritatively in the insurance field. The occasion is doubly pleasurable when the speaker happens to be a member of our own Association. It is such a gentleman whom I am about to introduce to you for the address at this session. Ray Murphy graduated from the University of Iowa and received his law degree from the University of Iowa College of Law. For 25 years he practiced law in the State of Iowa. He was the recipient of many manifestations of high regard and trust; served as chairman of the Iowa State Board of Parole, as a member of the Iowa State Tax Commission and as Commissioner of Insurance for the State of Iowa. In rapid succession he was county attorney, city solicitor and special assistant attorney general.

In recognition of his fine service to his country in World War I he was entrusted with the post of commander of the Iowa Department of the American Legion and his great genius for leadership and organization were manifested by receiving the highest honor that the American Legion could possibly bestow, that of office of national commander.

His many talents found expression thereafter in the insurance field on a nationwide basis. He was a representative of an organized capital stock casualty and surety company on various all-industry committees. He held the office of legislative director for nationally organized casualty and surety companies. He has contributed copiously to law reviews and insurance trade publications relative to the various phases of insurance regulations by the states. He is presently general counsel of

the Association of Casualty and Surety Companies and in that position has had extensive opportunities to evaluate and propose solutions to the many problems connected with the insurance industry, not only from the standpoint of one skilled in the technical knowledge of the insurance business but also from the standpoint of the problems touching the industry in the legislative and legal field. He is a member of the Iowa, New York and American Bar Associations and of course all of us are very proud to be able to refer to him as a member of this, our own association.

I have the distinct pleasure of presenting to you Mr. Ray Murphy of New York, general counsel of the Association of Casualty and Surety Companies, who will speak to you upon a subject which has particular interest to all of us, namely "The American Jury—A Discussion."

(Applause).

The American Jury — A Discussion

RAY MURPHY, *General Counsel*
Association of Casualty and Surety Companies
New York, N. Y.

A FEW months ago, at the Institute of Personal Injury Litigation presented by the Southwestern Legal Foundation, I pointed to the fact that liability insurance companies are in the sometimes unenviable position of having to honor checks written, as it were, by jurors, in amounts not always to the companies' liking. Today, let us further consider the operation of our jury system in civil, and especially tort, cases, and let us consider whether some changes may be in order.

In the preparation of this talk I have conducted a personal opinion "poll" among some of the distinguished members of this Association, the results of which will be reflected herein, without identification of sources. Perhaps I had better say that if I express any opinion, it will be my own personal view only.

The jury system is not without staunch defenders, many of whom consider it a part of our sacred heritage, to destroy which would be to destroy an essential part of our democracy. Judge Ethridge[1] of Mississippi, in an essay on jury trials, has said:

> "The advantages of jury trial to private litigants in their private controversies is great, because it prevents partiality, bias and prejudiced judgment, and protects them and their property, because the questions to be decided must pass through the minds of twelve good and lawful men, who have been described in our statutes as men of good intelligence, sound judgment, and fair character."

The judge further says that

> " . . . whatever prejudices (a juror) will have against a litigant, or against a lawsuit, or any other thing that influences the mind improperly, which has not been disclosed by a searching examination on the *voir dire,* must be considered by his fellow jurors, some of whom may have a contrary predilection, bias or prejudice, and it is rare that a particular prejudice, bias or leaning would influence all members of the jury who must agree on the verdict. If men are, in fact, what the law designs them to be, 'men of good intelligence, sound judgment, and fair character,' it will be impossible to get unfair and partial verdicts."

Though the learned judge admits that no human institution can be perfect, he thinks that the jury system approximates that standard as nearly as any system could. That there are some who doubt it, will be shortly revealed.

Everyone, whether he likes the jury system or not, will agree to one thing—that it is cumbersome. Panels must be summoned, excuses examined and considered, busy courts need several additional employees to operate it. Trials are slowed up by empaneling, openings, objections, prolonged summations, instruction, requests for instructions, deliberation and so forth.

The fact that it is cumbersome is not, in my opinion, a reason, in and of itself,

[1] 113 So. 433.

for condemning or abandoning the system. All the processes of democracy are cumbersome, compared to a dictatorship, which may be streamlined and made highly efficient by a process of elimination of elections and legislatures and courts as we know them. All of us here prefer democracy, whatever its faults. And if the jury system is an indispensable ingredient of democracy, I'll take that too. Let us consider whether it is.

Most historians believe that the jury system was brought to England by the Normans. The first jurors were not triers of the fact, but were persons acquainted with the facts involved, and who spoke out of personal knowledge. In the enforcement of criminal justice the earliest function of the jury appears to have been the presentation of accusations, and it was only later that jurors were convened to decide under oath the question of guilt. The early jury trials, while supplanting, and improving upon, the Ordeals and other irrational procedures, were not themselves satisfactory, because they depended entirely on the unsupported oath of the jurors. By the sixteenth century, the jury was used in civil as well as criminal cases, and the practice of calling witnesses was well developed, but not until the mid-eighteenth century were methods other than attaint available to set aside an improper verdict. To Englishmen, and persons of English descent, trial by jury became a cherished protection against the possibility of judicial and administrative tyranny. Among the abuses recited in the Declaration of Independence is "depriving us in many cases, of the benefits of trial by jury." The Sixth Amendment and the Seventh Amendment to the United States Constitution, reflecting this concern, provide for trial by jury in criminal prosecutions, and in civil suits at common law where the damage sought exceeds twenty dollars. As you know these federal constitutional provisions do not bind the states, which, however, commonly have similar provisions in their own constitutions.

As all of us know, the cumbersomeness of the jury system has led inevitably to delays. It has bred procrastination, for which the system and all who are a part of it share the blame. If one who has a cause of action cannot have his day in court for a period of four years or more, as is the case in some jurisdictions, then I think the system responsible for that delay is not in fact democracy, but is in essence the antithesis of democracy. Parenthetically, insurance companies are sometimes accused of being largely responsible for such delay by their failure to settle cases. That accusation is unfounded. The percentage of claims promptly settled is really very high. And I have heard it said that insurance companies settle too many cases, and by so doing encourage unfounded claims. I believe the responsibility for delayed justice in tort cases can be attributed almost entirely to the jury system itself.

But even delay could be tolerated — though not readily — if the system were more often conducive to just and equitable results. Observation and study of the system have convinced many that such results are all too rarely attained.

In theory, the jury system is efficient, involving a precise division of functions— the law for the judge, the facts for the jury. In practice, however, the division is not precise. The catchall device called the "general verdict" swallows up, among other things, the principles and application of the law as expounded by the judge. Sunderland[3] said:

> "The general verdict is as inscrutable and as essentially mysterious as the judgment which issued from the ancient oracle of Delphi. Both stand on the same foundation—a presumption of wisdom."

Though the jury is presumed to get its law from the judge, it is the rather rare jury that actually "gets" the law that the judge expounds. It is doubtful that in a single lecture any judge can actually impart to the jury the knowledge it needs for a fair and intelligent decision. The court's charge has become in large part a mere ritual, never comprehended by the jurors.

Dean Green said:

> "The instructions of a judge to a jury normally relate to the law applicable to the possible findings of fact, stated hypothetically, which are supported by the evidence. In any but the simplest cases, they are long and involved, phrased in terms of the nicest distinctions, capable of being understood only by lawyers and, more frequently than not, inaccurate. No one seriously claims that they are under-

[3]Sunderland: Verdicts, General and Special, 29 Yale Law Journal 253.

stood by juries or that they assist juries in reaching a verdict."[3]

Even in the simple case, when the jury has a fair working conception of the rules, it can, by distorting the facts, arrive at the result which it happens to prefer. The reasons for the preference may actually be totally irrelevant, for example that the plaintiff is a poor widow, that the defendant is a wealthy corporation, or is insured, or what not.

To attempt by instructions to give to a jury in a matter of minutes a legal education (albeit limited), may be as futile as trying to teach a butcher in one easy lesson how to do an appendectomy. It is surprising that the appellate courts pay so much attention to instruction and reverse for even minor flaws in them. Instructions, it appears, are the greatest single source of reversible error.

This may result in a vicious circle. Shifting metaphors, the judge, fearful of reversal, has to walk a tightrope. He must be careful to include the numerous rules relating to credibility of witnesses, presumption, circumstantial evidence, degrees of proof, the weight or sufficiency of evidence and cautionary instructions. Farley[4] points out that instructions must be neither broader nor narrower than the pleadings nor suggestive of issues not raised thereby. Care must be exercised not to assume the existence or non-existence of any facts, and there must be no omission or exclusion of any issues, theories or defenses, even though the evidence is very slight; and the whole must be so balanced as neither to give undue prominence to particular evidence, theories or issues, nor to call specific attention to the claims of one without adverting to the corresponding claims of the other party. The task of the judge is not made easier by the practice of some lawyers who request a large number of instructions in the hope that the judge will refuse a few of them, reversible in nature.

Quite usually, the technical nature of the instructions makes it impossible for even the most intelligent jurors to grasp their meaning. But ignorance of the law does not necessarily handicap the jury in its verdict-making process. It is not always interested in what the law *is*, but often is interested in what, according to its views, the law *ought to be*.

[3]Green: Judge and Jury, 351.
[4]Farley: 42 Yale Law Journal, 194.

I come now to what many consider an even more serious shortcoming of juries, which is that they are not particularly well qualified to determine even the facts. Judge Frank[5] says:

"(adequate fact-finding) requires devoted attention, skill in analysis, and, above all, high powers of resistance to a multitude of personal biases. But these qualities are obviously not possessed by juries. They are notoriously gullible and impressionable."

Russell Duane[6] said:

"It is the misfortune rather than the fault of the average juror that he has neither the native ability nor the acquired experience or skill to deal with complicated issues of fact. Like most average men, his experience has been largely confined within the limitations of home, occupation, church, lodge room, and the contents of his favorite newspaper. There is a popular superstition that the so-called 'plain man,' especially when acting in conjunction with others equally 'plain,' is endowed with a kind of 'instinct' which enables him to detect fault and prevarication, discount exaggeration, see through disguises, analyze conflicting stories, and uncover the real truth in any kind of case. In point of fact, he has not the ability to do any of these things. An unscrupulous advocate who is a sufficiently good actor, can, by deceptive ruses and appeals to prejudice, make an average jury ignore the most truthful testimony and draw the most unfounded inferences. In cases which relate to such matters as commerce, mechanics, science, and medicine, the issues are invariably beyond the comprehension of an average juror. . . .

"To discriminate between conflicting items of evidence, to determine whether a skillful prevaricator is twisting facts to his own profit, to see when they are being either grossly exaggerated or manufactured out of the whole cloth, requires the highest degree of judgment, education, experience and mental alertness. No greater demand can be made on the human intellect. To expect a so-called 'plain' man to perform this kind of work of skill is about as sensible as to expect him to preach from a pulpit,

[5]Frank: Law and the Modern Mind, page 179.
[6]Russell Duane: Civil Jury Should be Abolished, 12 Journal of the American Judicature Society 137.

perform a surgical operation, edit a magazine, or serve as governor of a state."

I have heard no one suggest that jury deliberations be conducted in the open, and I am not making that suggestion now. But I am sure that the results of open deliberation would be most interesting. As you all know from questioning jurors after a trial, the word "deliberation" is not a precise description of the proceedings. I am reminded of the story of the juror who explained the verdict as follows:

"We couldn't make head or tail of the case, or follow all the messing around the lawyers did. None of us believed the witnesses on either side anyway, so we made up our minds to disregard the evidence on both sides and decide the case on its merits."

The jury system is said to be a safeguard against the prejudiced judge. But prejudice is a much more significant ingredient of jury verdicts.

Judge Frank commented on the factors which influence juries. He said:

"Many juries in reaching their verdicts act on their emotional responses to lawyers and witnesses; they like or dislike, not any legal rule, but they do like an artful lawyer for the plaintiff, the poor widow, the brunette with the soulful eyes, and they do dislike the big corporation, the Italian with the thick, foreign accent. We do not have uniform jury nullification of harsh rules; we have juries avoiding—often in ignorance that they are so doing—excellent as well as bad rules, and in capricious fashion."[1]

As every lawyer knows, logical reasoning and legalistic argument are almost certain to be futile with the jury. The successful tactics are those which influence the emotions, arouse sympathy, pity or animosity. The colored pictures of injuries, the artificial limb passed among the jurors, the graphic descriptions of excruciating pain, hypnotize the jury to believe that the defendant is a criminal and even the most credible evidence of his innocence may be of no avail.

Frequently, the oratory of jury lawyers has as its sole target the jury's emotions. Many of us know jury lawyers who are frustrated or merely diverted actors, for whom the trial serves as an outlet for repressed Thespian talents. In one Tennessee case[2] counsel for the plaintiff, in his closing argument, in the midst of a very eloquent and impassioned appeal, shed tears, and on appeal it was claimed that this "misconduct" unduly excited the sympathies of the jury in favor of the plaintiff and greatly prejudiced them against the defendant. The following is an extract from the opinion of the Supreme Court:

"Perhaps no two counsel observe the same rules in presenting their cases to the jury. Some deal wholly in logic and argument, without embellishments of any kind. Others use rhetoric and occasional flights of fancy and imagination. Others employ only noise and gesticulation, relying upon their earnestness and vehemence instead of logic and rhetoric. Others appeal to the sympathies—it may be the passions and peculiarities—of the jurors. Others combine all these, with variations and accompaniments of different kinds. No cast iron rule can or should be laid down. Tears have always been considered legitimate arguments before a jury, and while the question has never arisen out of any such behavior in this court, we know of no rule or jurisdiction in the court below to check them. It would appear to be one of the natural rights of counsel, which no court or constitution could take away. It is certainly, if no more, a matter of the highest personal privilege. Indeed, if counsel has them at command, it may be seriously questioned whether it is not his professional duty to shed them whenever proper occasion arises, and the trial judge would not feel constrained to interfere unless they were indulged in to such excess as to impede or delay the business of the court."

I remember how deeply impressed I was as a lad when I played hookey from school to attend a criminal trial. The defendant's wife, a comely lady, had cried quietly, prettily and effectively all through the arguments of defense counsel. The prosecutor in closing sought to meet the situation by saying—"And now, gentlemen of the jury, the time has come to look toward the light, and to let the sunshine of reason shine in and dry away those tears." In the same case one of the defendant's lawyers, a giant of a man with a voice like the Bull of Bashan, frequently called for water,

[1] Frank: Courts on Trial, page 130.

[2] *Ferguson v. Moore*, 98 Tennessee 342.

which he drank by the quart. "It's the first time," the prosecutor said, "I've ever seen a windmill run by water." But the defendant was acquitted.

I recall one incident that, according to legend, occurred in one of the foreign language speaking communities which were rather numerous in my native state of Iowa a generation or two past. A lawyer was defending his client on a charge of assault and battery. His native tongue was not English and his English was rather broken and occasionally mixed. In his summation this lawyer said:

> "Gentlemen, you have heard from the testimony that the complaining witness, in the presence of other witnesses, called my client, the defendant, a red-headed S. O. B. Gentlemen, I ask you, how would you like it if somebody called you a red-headed S. O. B., or a black-hearted S. O. B., or a bald-headed S. O. B.—or whatever kind of an S. O. B. you are."

The jury system is said to add flexibility to the law, but it does more—it makes the law uncertain and unpredictable. The jury can, if it wishes, completely disregard the law, and it can try to apply the law and yet do so incorrectly because of lack of understanding. This makes every jury in a sense above and superior to legislation, without adequate rules to guide their behavior. In the operation of the system, you may have what Jerome Frank has called "a government of often ignorant and prejudiced men." Cardozo said, "Law as a guide to conduct is reduced to the level of futility if it is unknown and unknowable."

Aside from inherent defects, many of the shortcomings of the jury system can be attributed to the adverse conditions under which jurors are compelled to work. A group of twelve amateurs is picked at random and forced to sit for long periods in the jury box and listen to testimony that frequently holds no interest for them. A multitude of facts is thrown at them, some of them important and some of them not. Inexperienced, they do not know what to look for until they are told toward the end of the trial. Then they are required to review in their minds all of the testimony they have heard, and to separate the wheat from the chaff. This is an almost impossible feat of memory, and of reasoning power, especially where the trial has lasted for several days or for several weeks. A judge knows from experience that it is desirable to take notes during the trial, but jurors are not permitted in most jurisdictions to do so.

The conditions in the jury room do not tend to dispassionate reflection. An atmosphere of pressure, hurry and impatience customarily prevails. Most jurors are anxious to conclude their chore and to get back to their homes or their jobs. Because immediate unanimity of opinion is rare, all sorts of devices are hit on to arrive at the verdict. Sometimes the toss of a coin decides the fate of the litigants. Frequently the amount of a judgment is arrived at by taking the average of figures written down by members of the jury.

Every once in a while one juror's convictions do not coincide with those of the other eleven. He may be for the plaintiff—or he may be holding out for the defendant. In such cases the eleven may put on the pressure, sometimes to the extent of humiliation. In one instance, as the hour became late, the bailiff came in and asked whether he should order twelve suppers. "Make it eleven suppers," said the foreman, "and one bale of hay."

In one instance, cited by Judge Frank, the jurors agreed that each should draw a number between one and a hundred, the decision of the jury to be determined by the juror whose age came closest to the number he drew.

The product of the system cannot by any definition be called exact "justice." The system is not only cumbersome—it is expensive. According to an article in the New York Times,* in the fiscal year of 1951-1952 New York City, which pays jurors only three dollars a day, spent more than a million dollars in jury fees and expenses. This figure does not take into consideration the cost of the system to business and industry and to individuals in lost time. David W. Peck, Presiding Justice of the New York Appellate Division, First Department, has repeatedly asserted that the use of juries in civil cases is cumbersome, slow and inordinately expensive, and has urged that the practice be ended. In certain courts of New York City a person is compelled to wait as much as four years before his case can be reached for trial, and certainly much of the responsibility for the delay can be attributed to the jury system. It must be noted, however, that delay has been eliminated in at

*New York Times, May 11, 1953.

least one state without abandonment of the jury system. I have referred to New Jersey where under a modern judicial organization any case can be reached for trial within six months in any county of the state.

I do not seek to give the impression that a system of trial without jury would be perfect. Judges, too, are governed, to a greater or lesser extent, by emotions, prejudices and predilections, and can, and not infrequently do make mistakes. Yet there must be little question that the decisions of judges will much more frequently conform to law and legal principles than the verdicts of juries.

If the jury system is to be retained—and I think it highly unlikely that it will be abolished in the foreseeable future, and if, as most observers believe, the jurors do not and cannot comprehend the judge's charge, why waste time and effort by continuing this futile ritual? Why ask the jury to apply legal rules that they cannot understand and could not apply even if they were understood?

If the jury is to be solely a fact-finding body, would it not be better to submit to them merely questions of fact uncomplicated by legal principles? The special verdict compels the jury to give detailed consideration to the individual issues of fact, and, more important, enables the parties, the judge and the public to see what it has done.

However, even as to questions of fact I would be inclined to make certain reservations. I think *neither* a judge nor a jury can rightly decide technical medical questions, for example, as to which testimony of physicians is conflicting, or questions such as whether a certain injury will cause permanent disability. It seems to me that questions of that type should be referred to a panel of specialists in the field. Possibly this could be done before the case comes to trial. Similarly, I think that disputed technical, scientific and engineering questions should be referred to specialists in the field.

Furthermore, when we come to the question of computing certain types of damages, for example, damages for pain and suffering, I believe that a juror, being inexperienced, is completely lost. An experienced judge is, I believe, much better qualified to arrive at a fair amount.

It has been said that "two heads are better than one." And maybe three heads are better than two—and twelve heads better than three. But how far can this supposition be carried? Sometimes certain added heads have the effect of making the group less satisfactory. The few wiser heads among the twelve may have to bow to the more numerous blockheads. In many jurisdictions, one must admit, there is an adverse selection of jurors. The more intelligent and better qualified are excused, and the hangers-on become the gentlemen of the jury.

As I have said and you well know, the conscientious juror's job is not an easy one. He is obliged to solve problems from which any self-respecting fortune teller would shy. He must make a diagnosis and determine the prognosis when medical experts disagree. Without the aid of a slide rule or table of logarithms, he must tackle mathematical puzzles that would make an actuary throw up the sponge.

Now there is agitation to give him another chore that may require conversion of a complex occurrence, as to which testimony is in conflict, into precise percentages, or may require quantitative evaluations as to degree of negligence and contributory negligence. To give this additional task to a jury is, in my opinion, merely to encourage verdict by guess, by average or by toss of a coin.

While the common law rule of contributory negligence may be considered harsh in an industrialized and mechanized age, in fact few plaintiffs have reason to complain of it, since slight contributory negligence is consistently disregarded both in settlement and in the trial. In my judgment, the effect of the comparative negligence rule, if administered by a jury, would be a total disregard of contributory negligence whatever the degree. Furthermore, I believe the jury would in most cases ignore or circumvent the provision of the comparative negligence law requiring diminution of damages. All of which would be a big step in the direction of that utopian ideal of unlimited damages for every injury, condition or mental state, regardless of causation.

When legal liability and mathematical computation are displaced by emotional reactions and astronomical figures, we travel the Glory Road to socialism. If the illicit combination of liability without fault and awards without restraint is to continue, and expand, insurance rates will rise to levels beyond the reach of the aver-

age motorist. When that happens (and it doesn't seem far off in some localities), legislative changes in the nature of limitations are inevitable, and if these cannot be accomplished within our present system of jurisprudence that system will be abandoned.

What, then, are remedies? Justice Peck has recommended the elimination of juries in tort cases in New York City, where court congestion is intolerable, the delay resulting in denial of substantial justice, while feeling that juries can be usefully employed to a limited extent, as in felony cases and some classes of civil cases. Justice Cuff suggests that the court conduct the preliminary examination of jurors, and more importantly, that all matters concerning damages be eliminated from the jury's consideration, leaving to the jury the determination of liability alone. "Let the court, without a jury, determine the damages at a trial long in advance of the trial of the liability issue," the Justice says. A limited number of insurance companies have offered to arbitrate all negligence cases within their control through the American Arbitration Association. Some, I hope not many, believe a system of compensation regardless of fault is desirable and perhaps inevitable. I do not, emphatically. The use of the jury wheel, whereby all taxpayers are rendered eligible for possible jury service, replacing the commission form of jury selection, has in use resulted in a wider cross-section of citizens being called for jury service. A short manual of instructions to jurors is officially distributed to jurors in some jurisdictions, with good results, I am told. Finally, as far as these remarks are concerned, the jury system may be improved by a process of education conducted by the bar itself. Though the jury is not and should not be a "blue ribbon" assembly in all cases, it can be a fair and representative cross-section of the community, rather than the lowest common denominator, given intelligent and honest support by bench and bar.

If I seem to have weighted these remarks against the American jury system, I have done so in part as a "devil's advocate." I happen to share in the belief that the jury system is an essential part of American democracy; I share also some of the cynicism of the jaded trial lawyer who shrugs his shoulders and says, "What else have we got?"

I referred earlier to a quite limited "poll" of members of this association in relation to the jury system. The concensus of that poll is well expressed in a letter from one of my correspondents, reading in part as follows:

"Few Anglo-Saxon institutions appear as sacred to me as the American Jury System which the English Colonies adopted and which our national and state governments inherited and maintained, with minor modifications. At times I must admit justice appears to miscarry under the American Jury System, but for more than a century and a half it has, in my humble opinion, proven one of the 'bulwarks of our liberties.' I dislike to see the system tampered with. I believe in a jury of *twelve* 'good men and true' and I am not persuaded that less than that number should be permitted to reach and render a verdict. Juries of six and majority verdicts are innovations which are debatable and not intolerable, but as I appraise the working of the system over the centuries I doubt that it is 'time for a change.' I concede that some cases in some jurisdictions may, in the interest of speedier justice, be submitted to the court without a jury, but in general I believe that justice and the interests of litigants in civil cases and of the accused in criminal trials are best served by the deliberations and judgment of a jury.

"My supreme faith in our jury system and in its future, presupposes that all citizens will come to accept jury service as a sacred duty, evading that duty only in extremity. This would perhaps approximate blue ribbon juries, now specifically provided by law in certain jurisdictions.

"I appreciate the implications of your reference to 'what can happen when jurors retire to the jury room to discuss a case,' and what often happens, I admit, serves to discredit the system. I am inclined to think, however, that what Lincoln said about the 'wobbling' of the American people might be consistently applied to American jurors—'they usually wobble right'!"

ALVIN CHRISTOVICH, President: Ray, we are very appreciative for your appearing here and addressing us. You have discussed in a most thorough manner a subject of interest to all of us. I noted the

particular attention the audience has given to your address, and I think that is evidence of their great interest. Thank you again, Ray for your appearing and giving us a most enlightened discussion.

Now I am going to recognize George Yancey who has asked for the privilege of the rostrum for a moment. (Applause).

MR. GEORGE YANCEY: Mr. President, Ladies and Gentlemen: It appears that members in increasing numbers are from time to time attempting to have in their offices a complete set of bound volumes of Insurance Counsel Journal. When the Journals are kept loose by the members, certain copies often disappear. The Journal office is therefore called upon to supply missing Journals. This your editor is happy to do if the particular copy requested is available. If any members have copies of the following issues of the Journal—July, 1934, January, 1935, January, 1936, October, 1939, October, 1940, April, 1946, July, 1946, January, 1948 and July, 1952—please notify the Journal office, as we are very much in need of these particular issues. If any member does not have index to Insurance Counsel Journal as prepared for us by West Publishing Company, and which covers articles through 1946, if you will write the Journal office, a copy of this Index will be gladly furnished as long as the supply lasts.

I would like again to thank those of you who have helped make the Journal what it is today by your contributions, and I trust each of you will continue to be conscious of your responsibility for the Journal by contributing articles from time to time, and notifying your Editor of any novel or interesting decision which has come to your attention.

Mr. President, before leaving Birmingham I expressed to your office a complete set of bound volumes of Insurance Counsel Journal, with the exception of one volume which I have with me and which I would like now, in behalf of the Association, to present to you, and the volumes sent to your office, as a token from the Association of its deep appreciation for the splendid job which you have done as President of this Association.

ALVIN CHRISTOVICH, President: Thank you very much George. I did get them just before I caught the train from New Orleans. This box came into the office and when I opened it, I found the entire series of the Journal, beautifully bound, the entire set with my name as president on the outside of the volumes. I will cherish these always, George. This is just another memento which will always remind me of one of the most pleasant years of my life, the year of association with the group of finest gentlemen it has been my privilege to know.

Now, Pat Carey will you come up and make your announcements. I am sure Pat will make some announcements for the Ladies Bridge and Canasta Tournament and reception and before Pat comes to the rostrum, I wish to, on behalf of the Officers of the Executive Committee, thank all the ladies who worked with them to make the reception of the wives of new members and the Bridge and Canasta Tournament such a success. I have heard so much about the Ladies Reception, of the very fine time they had and the magnificent way in which it was run. Thank you Ladies very much.

And before I turn over the gavel to Pat, may I also officially for all of you, thank Pat and Jack and all his committee again, for giving us the splendid entertainment, for making all the arrangements and getting this convention going in an orderly manner and still give us a little entertainment during the evening hours.

I think I saw last night, the finest bit of entertainment it has been my privilege to see at one of the meetings, that's the Quebec Choir. Any of you who were unfortunate enough not to hear this group of gentlemen and beautiful ladies, missed quite a treat. To you both, thank you again and now, Ken, your announcements. (Applause).

MR. KENNETH B. COPE: I think first, in the announcement program I shall call on John Wicker to give you the results of the Men's Bridge and Canasta Tournament. I know that he will undoubtedly want to give you the results himself, and I want to thank Roger Lacoste for arranging this, and in particular, for selecting the men's prizes.

MR. JOHN WICKER: Roger was very helpful in the selection of prizes, since he knows what they had to offer here, he was able to get prizes that had some characteristics of this beautiful land we have visited for the last few days and he and his good wife—I think that should be mentioned, because I think he really didn't do the selecting; he just accompanied her and carried the parcels. The Bridge and Canasta Tournament for men was quite a success.

A large number came and they enjoyed themselves so much that they went on till 6 o'clock. There were 15 prize winners and they came from Canada and from 11 separate states. They selected their own presents in this order, and you get perhaps some kick out of what they picked.

(Applause).

MR. KENNETH B. COPE: Mrs. Harriet Smith has asked me to report that her reception for the wives of new members was quite a success. They enjoyed the Bridge and Canasta very much, and she has kept her finances well within the budget, and she gave the ladies a little pin of crown of the coronation. I thought it very nice, it is something they can take back with them rather than flowers that fade so soon.

Mrs. Shackleford of the Ladies Bridge and Canasta Committee has also asked me to report to you that the party was a success. There were 38 prizes. She thinks the list is too long to name them but she wants me to tell of her gratitude to the Committee and in particular to Mrs. Phelan who selected these prizes.

Now, on my own behalf, I certainly want to acknowledge the aid and assistance and help I got from the members of the committee.

I am now singing my swan's song as chairman of the entertainment committee and I had a deep fear and it has got a little wary, and I would like some more time to attend the meeting and have a little time to spend with my wife, take a few pictures. It has been quite a bit of work but I want you to know that I can't say that it has not been fun too. And for fear you will feel overjoyed that you won't be pestered with me any more, I will warn you I will be on service for this International Cabaret. You won't be able to keep me out.

It has been enjoyable, very much, and particularly nice serving under the men who have been heading the Association recently and certainly it has been a pleasure to work with our president, Mr. Christovich. (Applause).

MR. ALVIN CHRISTOVICH, President. Thank you Pat. I think that all of us realize the sacrifices of time that Pat and the members who worked with him in this business of entertainment for our membership have made. Pat has done this over the years and I will assure you, Pat, that we are very greatly indebted to you.

Now, is there any unfinished business to come before this meeting?

Is there any new business to come before this meeting?

MR. ROGER LACOSTE: Mr. President, this is our twenty-sixth convention, and there are some members who have now served over a quarter of a century.

I would like to move, seconded by Pat Carey, that a sort of a Quarter of Century Club be formed and my resolution would be worded as follows: "That some recognition be given to members who have served over twenty-five years, in good standing, details to be made by the executive committee."

ALVIN CHRISTOVICH, President: It now has been moved and seconded that some recognition be given to members who are twenty-five years in standing. Any discussion on the motion? All in favor say "yes?" Those against?

Is there any additional new business?

MR. KAMMER: One of our members of long standing and a member of the executive committee, our good friend Wilson C. Jainsen, on last May was made President of his company. I think it would be very nice if we passed a resolution of congratulations and send it to Bill, and I so move.

MR. CRAWFORD: I second the motion, that such a resolution of congratulations be sent to Wilson C. Jainsen.

ALVIN CHRISTOVICH, President: Any discussion? All in favor of the motion say "Aye?" Those "No?"

Any further new business?

If not, here is the report of the Nominating Committee, but first may I thank the Nominating Committee for the time they have spent in deliberating. It is a pretty bad trick to play on anybody at a convention and I am sorry I had to do that this year, and as everyone else has done in the past, and the same will be done in the future, and I especially want to apologize to the wives of all these members because they have been deprived of their husbands for so many hours. I hope they will forgive me. Thank you very much, Wayne Stichter, you and your committee. Will you now make your report.

MR. WAYNE STICHTER: Mr. President, Members of the Association, the job of the Nominating Committee of this Association is always a very difficult task because there is always such a big wealth of excellent material for leadership in our

Association. This year has been no exception. The Nominating Committee has put forward the names of many men all of whom will serve this Association well. We certainly regret we weren't in a position to hand out 30 or 40 offices. We have tried to give consideration to the many factors which are involved in choosing between men of equal ability and qualifications. We submit, Mr. President, the following nominations and Mr. Christovich has suggested that as their names are read, these gentlemen stand up:

For President-Elect: Mr. Stanley C. Morris of Charleston, West Virginia. (Applause).

Two Vice-Presidents: One, Mr. Robert L. Earnest of West Palm Beach, Fla. (Applause).

Mr. William H. Hoffstot of Kansas City, Missouri. (Applause).

Secretary: John A. Kluwin of Milwaukee, Wisconsin. (Applause).

Treasurer: Mr. Charles E. Pledger, Jr., of Washington, D. C. (Applause).

Three members of the Executive Committee, Mr. Forrest A. Betts of Los Angeles, California. (Applause).

Mr. Denman Moody of Houston, Texas. (Applause).

Mr. J. Mearl Sweitzer, of Wausau, Wisconsin. (Applause).

Respectfully submitted by the five members of the Nominating Committee. I move acceptance of these nominations.

ALVIN CHRISTOVICH, President: Do I hear a second? I recognize Mr. Dodd.

MR. DODD: Mr. President, it is a pleasure and a privilege for me to second those nominations and I will move the unanimous election of the gentlemen named.

ALVIN CHRISTOVICH, President: All in favor signify by saying "Aye." Those "No?" So ordered, a unanimous election.

I am about to embark the gentlemen who will head your Association for the next year. Before doing that, I would like to introduce to you one whom I am sure needs no introduction. He is James A. Gooch. (Applause).

I am going to ask Milo Crawford and George Yancey if they can take a hold of that big fellow and bring him out here, Tiny Gooch.

Tiny, until you receive your official gavel next year, I am going to let you use this one, but what in the world a man with those sized hands would use a gavel for, I would like to know.

I would like to congratulate Tiny Gooch, one of our most beloved members, and I predict that in this coming year, Tiny will lead us to great heights of progress and happiness in this organization. Tiny, my best felicitations and congratulations. (Applause).

PRESIDENT J. A. GOOCH: Ladies and Gentlemen, thank you very much. When the Nominating Committee reported that they nominated Messrs. Morris, Earnest, Hoffstot, Betts, Moody and Sweitzer, I wasn't too surprised.

It goes without saying that I am deeply grateful for this honor and I accept it in all humility. I shall do my best to carry on the work that has been done by my predecessors in this Association and particularly the splendid meeting that President Christovich has held here in this country of Canada.

There are a few details but before I get into those announcements, I would like to ask the same gentlemen who were kind enough to escort me to this rostrum, to escort the President-Elect so that you might hear a word from him. (Applause).

He is not a leftwinger; bring him over here to right side.

MR. STANLEY MORRIS, President-Elect: President "Tiny" and Past President Al, Ladies and Gentlemen and Friends, I am deeply touched by the honor which you have bestowed upon me. As I see it, the function of the President-Elect during this year is to be seen not at all, to be heard very little and work hard.

I might say that I would endeavor to stand behind Tiny and hold his hand, but that's a physical impossibility. There is no one but Christovich who can reach that far.

I assure you I am very sensible to this great honor and great responsibility. I am one of those fellows who don't know much but hard work and I assure you that I will give as much manhours and mandays as I will be able and serve you here later as your President. (Applause).

J. A. GOOCH, President: At this time, Ladies and Gentlemen, I would like to introduce Stanley Morris' "Old Lady," Leona. (Applause).

And this time, I think it will be appropriate if the members of the new Executive Committee will come forward as their names are called:

Bob Earnest from West Palm Beach. (Applause).

The other Vice-President, Bill Hoffstot of Kansas City, Missouri. (Applause).

And of course, one of the great surprises of the Nominating Committee was John Kluwin, as Secretary. (Applause).

Mr. Charles Pledger, Jr., as Treasurer. (Applause).

The three members of the Executive Committee, going on for a three-year term:

Forrest A. Betts from Los Angeles, California. (Applause).

Next in order, announced by the Nominating Committee, Denman Moody of Houston, Texas. (Applause).

J. Mearl Sweitzer of Wausau, Wisconsin. (Applause).

Now in the fashion of the old "M.C." let's give them a new round.

As most of you know unofficially, the convention will be held next year at The Greenbrier, White Sulphur Springs, West Virginia. The convention dates have been set as July 7, 8, 9 and 10. It will not be necessary at this time to make your reservations but announcements will be made as to how the reservations are to be made by the Secretary. At that time some form of machinery will be set up and you will be advised as to how the reservations are to be made.

The new executive committee meeting will be held at 2 o'clock in Salon No. 2. Also, most of you have been notified of the meetings of the standing committees by your chairmen. We will deeply appreciate it if you do attend the meetings and get your work lined up for the coming year.

Now again, I appreciate very much this position. I shall try to merit your confidence. I dislike very much to say "goodbye" so, "see you next July." Thank you very much. (Applause).

Membership and Guest Registration—1953 Convention

Abramson, Marcus, New York, N. Y.
Adams, Charles J., Hartford, Conn.
Adams, Mr. and Mrs. St. Clair, Jr. (Lilla), New Orleans, La.
Ahlers, Mr. and Mrs. Paul (Amirrette), and sons Paul, Jr. and Tom, Des Moines, Iowa.
Albert, Mr. and Mrs. Milton A. (Helen), Baltimore, Md.
Allen, Mr. and Mrs. James P., Jr. (Evelyn), Boston, Mass.
Alpeter, Mr. and Mrs. James E. (Margaret), Akron, Ohio.
Anderson, Henry L., Fayetteville, N. C.
Anderson, Mr. and Mrs. Newton E. (Ada Mae), Los Angeles, Calif.
Anderson, Rudolph E., Superior, Wis.
Anderson, Mr. and Mrs. Wilson (Margaret), Charleston, West Va.
Andrews, Mr. and Mrs. John D. (Marie), Hamilton, Ohio.
Armstrong, Mr. and Mrs. Ralph A. (Avice), Springfield, Mass.
Armstrong, Vayne M., Indianapolis, Ind.
Arnold, Mr. and Mrs. H. Bartley, Jr. (Mary Jane), Columbus, Ohio.
Askew, Mr. and Mrs. Erle B. (Lucille), St. Petersburg, Fla.
Atkins, Mr. and Mrs. C. Clyde (Esther), and daughters Julie and Carla and son Clydie, Miami, Fla.
Baier, Mr. and Mrs. Milton L. (Madonna), and daughter Kathie, Buffalo, N. Y.
Baile, Mr. and Mrs. Harold Scott (Helen), Philadelphia, Pa.
Bailey, Mr. and Mrs. Fred (Floy), Bronxville, N. Y.
Baker, Mr. and Mrs. Harold G. (Bernice), East St. Louis, Ill.
Barefield, Mr. and Mrs. T. K. (Stella), Panama City, Fla.
Barker, Mr. and Mrs. Howard (Bernice), Fort Worth, Tex.
Barnard, Mr. and Mrs. Herbert E. (Jane), St. Louis, Mo.
Barnett, Mr. and Mrs. Walter M., Jr. (Virginia Mae), and daughters Linda and Walda, New Orleans, La.
Barry, Mr. and Mrs. Hamlet J., Jr. (Gertrude), Denver, Colo.
Bartlett, Clarence, Owensboro, Ky.
Barton, Mr. and Mrs. John L. (Jessie), Omaha, Neb.
Bayer, Peter, Syracuse, N. Y.
Baylor, Mr. and Mrs. F. B. (Georgia), Lincoln, Neb.
Beach, C. G., LeRoy, Ohio.
Beaudoin, J. Robert, Q. C., Quebec City, Canada.
BeGole, Mr. and Mrs. Ari M. (Helen), Detroit, Mich.

Bell, Mr. and Mrs. J. Hallman (Kate), and sons Hallman and Paul, Cleveland, Tenn.
Bennethum, Mr. and Mrs. William H. (Anne) and daughter Elizabeth, Wilmington, Del.
Bennett, Mr. and Mrs. Hugh M. (Lois), Columbus, Ohio.
Benton, Jesse W., Jr., New York, N. Y.
Betts, Mr. and Mrs. Forrest A. (LaVelle), Los Angeles, Calif.
Bisselle, Mr. and Mrs. Morgan F. (Lucille), Utica, N. Y.
Blanchet, Mr. and Mrs. G. Arthur (Lucille), New York, N. Y.
Body, Mr. and Mrs. Ralph C. (Ruth), and daughter Eleanor and son Howard, Reading, Pa.
Bogart, Leonard B., Hartford, Conn.
Boutin, J. Pierre, Quebec City, Canada.
Bradford, Mr. and Mrs. A. Lee (Vivienne), Miami, Fla.
Brewer, Mr. and Mrs. Edward C. (Ione), and daughter Rule, Clarksdale, Miss.
Brooks, Mr. and Mrs. Laurance W. (Neveda), Baton Rouge, La.
Brown, Mr. and Mrs. Oscar J. (Mary), Syracuse, N. Y.
Buchanan, Mr. and Mrs. G. Cameron and son Cameron, Detroit, Mich.
Buchanan, Mr. and Mrs. William D. (Elizabeth), Grand Rapids, Mich.
Buck, Mr. and Mrs. Henry (Nina), Kansas City, Mo.
Burke, Mr. and Mrs. Patrick F. (Mary), Philadelphia, Pa.
Burns, Mr. and Mrs. Stanley M. (Irene), Dover, N. H.

Campbell, Mr. and Mrs. Clarence H. (Vivian), Seattle, Wash.
Campbell, Mr. and Mrs. Paul, Jr. (Nelson), Chattanooga, Tenn.
Canary, Sumner, Cleveland, Ohio.
Carey, Mr. and Mrs. L. J. (Lena), Detroit, Mich.
Carriger, Mr. and Mrs. John S. (Helen), and sons Fletcher and Bill, Chattanooga, Tenn.
Carson, Mr. and Mrs. Samuel O. Helen), and sons Jim, Sam and Tom, Miami, Fla.
Cary, Mr. and Mrs. George H. (Gertrude), Detroit, Mich.
Cassem, Mr. and Mrs. Edwin (Winifred), Omaha, Neb.
Cavanagh, Mr. and Mrs. Arthur J. (Hilda), Utica, N. Y.
Caverly, Mr. and Mrs. Raymond N. (Rene), New York, N. Y.
Chase, Anne, Amarillo, Tex.
Chilcote, Mr. and Mrs. Sanford M. (Mildred), and son Sanford, Jr., Pittsburgh, Pa.
Cholette, Mr. and Mrs. Paul E. (Mona), Grand Rapids, Mich.
Christovich, Mr. and Mrs. Alvin R. (Elyria), New Orleans, La.
Christovich, Mr. and Mrs. A. R., Jr. (Elizabeth), New Orleans, La.
Clark, James E., Birmingham, Ala.
Clayton, Mr. and Mrs. Erwin A. (Marie), Gainesville, Fla.
Close, Mr. and Mrs. Gordon R. (Ruth), Chicago, Ill.
Combs, Mr. and Mrs. Hugh D. (Edith), Baltimore, Md.
Conaway, Mr. and Mrs. Howard H. (Eileen), Baltimore, Md.
Conklin, Mr. and Mrs. Clarence R. (Ellen), Chicago, Ill.
Conroy, Mr. and Mrs. Francis P., II (Geraldine), Jacksonville, Fla.
Cook, Jo D., Seattle, Wash.
Cooney, Mr. and Mrs. James Evans (Helen), Des Moines, Iowa.
Cooney, Mr. and Mrs. William P., Jr. (Mary Catherine), Detroit, Mich.
Cope, Mr. and Mrs. Kenneth B. (Lela), Canton, Ohio.
Cox, Mr. and Mrs. Berkeley (Margaret), and son John, Hartford, Conn.
Cox, Mr. and Mrs. Taylor H. (Mabel), Knoxville, Tenn.
Craugh, Mr. and Mrs. Joseph P. (Lucille), Utica, N. Y.
Crawford, Milo H., Detroit, Mich.
Creede, Frank J., San Francisco, Calif.
Crosby, Carlisle C., Oakland, Calif.
Cull, Mr. and Mrs. Frank X. (Madeline), Cleveland, Ohio.
Cunningham, Mr. and Mrs. Fred D. (Esther), Chicago, Ill.
Curtin, Mr. and Mrs. Thomas P. (Alice), New York, N. Y.

Dahinden, Blanche, Milwaukee, Wis.
Dalton, Mr. and Mrs. John M. (Geraldine), and daughter Judy, Jefferson City, Mo.
Dalzell, Mr. and Mrs. Robert D. (Alice), and daughter Kathleen, Pittsburgh, Pa.
Darling, Mayo A., Concord, Mass.
Deak, Mr. and Mrs. William S. (Grace), Reading, Pa.
Dempsey, Mr. and Mrs. James (Mabel), and daughter Valerie, White Plains, N. Y.

DesChamps, C. A., San Francisco, Calif.
Dickerson, Diane, Roanoke, Va.
Dickie, J. Roy, Winter Park, Fla.
Diehm, Mr. and Mrs. Ellis R. (Helen), Cleveland, Ohio.
Dimond, Mr. and Mrs. Herbert F. (Helen), New York, N. Y.
Dixon, Mr. and Mrs. James A. (Ruth), Miami, Fla.
Dodd, Mr. and Mrs. Lester P. (Edith), Detroit, Mich.
Dodson, Mr. and Mrs. T. DeWitt, (Dorothy), New York, N. Y.
Driscoll, Lawrason, San Francisco, Calif.
Duggan, Mr. and Mrs. Ben O. (Marion), and daughters Marion and Barbara, Chattanooga, Tenn.
Dunn, Evans, Birmingham, Ala.
Dyer, Mr. and Mrs. David W. (Helen), Miami, Fla.
Dykes, Mr. and Mrs. J. Ralph (Frances), New York, N. Y.
Dyll, Louis M., Detroit, Mich.

Eager, Mr. and Mrs. P. H., Jr. (Ann), Jackson, Miss.
Earnest, Mr. and Mrs. Robert L. (Lucy), West Palm Beach, Fla.
Eidman, Kraft W., Houston, Tex.
Eggenberger, Mr. and Mrs. William J. (Elsie), and daughter Barbara, Detroit, Mich.
Elam, Mr. and Mrs. John C. (Virginia), Columbus, Ohio.
Elliot, Mr. and Mrs. Beverly (Iris), Toronto, Canada.
Ely, Robert C., St. Louis, Mo.
Ely, Mr. and Mrs. Walter (Ruby), Los Angeles, Calif.
Ely, Wayne, St. Louis, Mo.
Emmert, Mr. and Mrs. Dudley O. (Elaine), Manitowoc, Wis.
Enteman, Mr. and Mrs. V. C. (Evelyn), Newark, N. J.
Epps, Mr. and Mrs. A. C. (Rozanne), Richmond, Va.
Erickson, Mr. and Mrs. Paul R. (Ruth), and sons Kenneth and Peter, Detroit, Mich.
Ernst, Mr. and Mrs. Frank F. (Hermione), Cleveland, Ohio.
Evans, Mr. and Mrs. William E. (Josephine), Paterson, N. J.

Farrar, Gayle, New Orleans, La.
Faude, Mr. and Mrs. John P. (Helen), Hartford, Conn.
Faust, W. K., New York, N. Y.
Fellers, Mr. and Mrs. James D. (Margaret Ellen), and daughters Kay Lynn and Lou Ann, Oklahoma City, Okla.
Field, Lyman, Kansas City, Mo.
Fields, Mr. and Mrs. Ernest W. (Muriel) and son Fred, New York, N. Y.
FitzPatrick, Mr. and Mrs. William F. (Margaret), Syracuse, N. Y.
Fix, Mr. and Mrs. Meyer (Elizabeth), Rochester, N. Y.
Flanagan, Mr. and Mrs. Charles V. (Florence), New York, N. Y.
Fluty, Holly W., New York, N. Y.
Flynn, Mr. and Mrs. James (Caroline), Sandusky, Ohio.
Ford, Byron E., Sr., Columbus, Ohio.
Fox, Frederick, Jersey City, N. J.
Foynes, Mr. and Mrs. Thomas N. (Marion), Lynn, Mass.
Franklin, Mr. and Mrs. James A. (Gene), Fort Myers, Fla.
Freeman, Mr. and Mrs. William H. (Catherine), Minneapolis, Minn.
Furman, Melissa, Fort Worth, Tex.

Gadbois, Emilien, Montreal, Canada.
Galiher, Mr. and Mrs. Richard W. (Phyllis), Washington, D. C.
Gallagher, Mr. and Mrs. Donald (Rosemary), Albany, N. Y.
Gallup, Mr. and Mrs. William D. (Harriet), and daughter Margaret, Bradford, Pa.
Garrity, Mr. and Mrs. Stanley (Marguerite), daughter Nancy and sons Bob, Dan and Tom, Kansas City, Mo.
Geer, Mr. and Mrs. Arthur B. (Marie), Minneapolis, Minn.
Gibbs, Mr. and Mrs. Richard S. (Margaret), Milwaukee, Wis.
Giffin, Mr. and Mrs. Merton H. (Muriel), Milwaukee, Wis.
Gongwer, Mr. and Mrs. J. H. (Gladys), Mansfield, Ohio.
Gooch, Mr. and Mrs. J. A. (Adrienne), son Gordon and daughter Gay, Fort Worth, Tex.
Gould, Mr. and Mrs. Charles P. (Mary), Los Angeles, Calif.
Gouldin, Mr. and Mrs. Paul C. (Virginia), Binghamton, N. Y.
Gover, Mr. and Mrs. C. H. (Mary), Charlotte, N. C.
Gowan, Mr. and Mrs. Allan P. (Mary), Glens Falls, N. Y.
Graham, Fred J., Tacoma, Wash.
Graham, John C., Hartford, Conn.
Gray, Mr. and Mrs. Harry T. (Mary), Jacksonville, Fla.

Gray, Mr. and Mrs. Richard E. (Helen), Dallas, Tex.
Gresham, Newton, Houston, Tex.
Grissom, Pinkney, Dallas, Tex.
Grubb, Mr. and Mrs. Kenneth P. (Marguerite), Milwaukee, Wis.
Gurney, Mr. and Mrs. J. Thomas (Blanche), Orlando, Fla.

Haas, Mr. and Mrs. Robert E. (Una), Allentown, Pa.
Hall, Mr. and Mrs. Robert E. (Mabel), Hartford, Conn.
Halverson, Mr. and Mrs. Gene W. (Betty), Duluth, Minn.
Hansbrough, John H., Tampa, Fla.
Hassett, Mr. and Mrs. Paul M. (Dorothy), Buffalo, N. Y.
Hawkins, Kenneth B., Chicago, Ill.
Hayes, Mr. and Mrs. Gerald P. (Eilleen), Milwaukee, Wis.
Haywood, Mr. and Mrs. Egbert L. (Margaret), Durham, N. C.
Heafey, Mr. and Mrs. Edwin A. (Florence), and son Richard, Oakland, Calif.
Heineke, Mr. and Mrs. Paul H. (Vivienne), Chicago, Ill.
Heneghan, George E., St. Louis, Mo.
Henley, Mr. and Mrs. W. S. (Leonette), Hazlehurst, Miss.
Henry, John A., Chicago, Ill.
Heron, Alexander M., Washington, D. C.
Hetzler, Theodore, Jr., New York, N. Y.
Heyl, Clarence W., Peoria, Ill.
Hobson, Mr. and Mrs. Robert P. (Allye), and daughter Allye, Louisville, Ky.
Hoffstot, Mr. and Mrs. William H., Jr. (Susan), Kansas City, Mo.
Horan, Philip E., Omaha, Neb.
Howard, Mr. and Mrs. Frank (Gladys), Worcester, Mass.
Howell, Mr. and Mrs. Charles Cook, Jr. (Sigrid), Jacksonville, Fla.
Howell, Mr. and Mrs. William M. (Margaret), Jacksonville, Fla.
Hubbard, Mr. and Mrs. Reese (Virginia), Chicago, Ill.
Humkey, Mr. and Mrs. Walter (Rosemary), Miami, Fla.
Hutchison, Ralph C., Easton, Pa.
Hyde, Mr. and Mrs. Robert C. (Elizabeth), son Blake and daughter Beth, Poplar Bluff, Mo.

Ingalls, Mr. and Mrs. George L. (Dorothy), Binghamton, N. Y.

Jackman, W. L., Madison, Wis.
James, Mr. and Mrs. James Burton (Lucy), Greenville, N. C.
Jennings, Mr. and Mrs. Clayton F. (June), Lansing, Mich.
Jessop, Albert, Quebec City, Canada.
Johnson, Mr. and Mrs. F. Carter, Jr. (Jo), New Orleans, La.
Jones, Mr. and Mrs. William J. (Mary), Detroit, Mich.
Jordan, Mr. and Mrs. Welch (Marietta), Greensboro, N. C.
Julian, Mr. and Mrs. Leo S. (Dorothy), Miami, Fla.
Junkerman, William J., New York, N. Y.

Kammer, Mr. and Mrs. Alfred C. (Wilmuth), New Orleans, La.
Karr, Mr. and Mrs. Payne (Susan), Seattle, Wash.
Kasdorf, Mr. and Mrs. Clifford C. (Jane), Milwaukee, Wis.
Kelly, Mr. and Mrs. T. Paine, Jr. (Jean), Tampa, Fla.
Kelly, Mr. and Mrs. William A. (Bessie), Akron, Ohio.
Kenney, Mr. and Mrs. Francis L., Jr. (Eleanore), St. Louis, Mo.
Kivett, Mr. and Mrs. A. W. (Mae), Milwaukee, Wis.
Klein, Mr. and Mrs. Daniel E. (Elizabeth), Baltimore, Md.
Kluwin, Mr. and Mrs. John A. (Noreta), Milwaukee, Wis.
Knapp, Mr. and Mrs. Frank J. (Inez), Houston, Tex.
Knepper, Mr. and Mrs. William E. (Lucille), and son Dick, Columbus, Ohio.
Kohler, Suzanne, Boyertown, Pa.
Kramer, Mr. and Mrs. Lee H. (Alice), Columbus, Ohio.
Kristeller, Mr. and Mrs. Lionel P. (Helen), Newark, N. J.
Krupczak, Christine, Port Huron, Mich.
Kuhn, Mr. and Mrs. Edward W. (Mattie), Memphis, Tenn.

LaBrum, Mr. and Mrs. J. Harry (Catherine), Philadelphia, Pa.
Lacey, Mr. and Mrs. Robert B. (Belva), Detroit, Mich.
Lacoste, Mr. and Mrs. Roger (Marcelle), and daughter Justine, Montreal, Canada.
Lancaster, Mr. and Mrs. John L., Jr. (Pat), Dallas, Tex.
Lazonby, J. Lance, Gainesville, Fla.
Lesemann, Mr. and Mrs. Ralph F. (Ruth), Urbana, Ill.
Liddon, Mr. and Mrs. Walker (Edna), Panama City, Fla.
Little, Mr. and Mrs. James (Irene), Big Spring, Tex.

Lloyd, Mr. and Mrs. L. Duncan (Olivia), and daughters Gingie and Kay, Chicago, Ill.
Lohman, Mr. and Mrs. Ira (Ida May), Jefferson City, Mo.
Long, Lawrence A., Denver, Colo.
Long, Mr. and Mrs. Thomas J. (Mary), daughters Abbie and Sissy, and son Tommy, Atlanta, Ga.
Lord, Mr. and Mrs. John S. (Marion), Chicago, Ill.
Lucas, Mr. and Mrs. Wilder (Ruth), and son Wilder, St. Louis, Mo.
Mangin, Mr. and Mrs. William B. (Clara), Syracuse, N. Y.
Manier, Miller, Nashville, Tenn.
Marchal, Mr. and Mrs. Vernon L. (Louise), Greenville, Ohio.
Marshall, Mr. and Mrs. Edmund A. (Manrea), Huntington, W. Va.
Martin, Mr. and Mrs. Mark (Marion), Dallas, Tex.
Martin, Mr. and Mrs. William F. (Catherine), daughter Elise and son William, Jr., New York, N. Y.

Masters, Mr. and Mrs. Richard C. (Vera), Lansing, Mich.
Matheson, Mr. and Mrs. J. M. (Marion), Chicago, Ill.
Mautz, Robert T., Portland, Ore.
Mawhinney, Donald M., Syracuse, N. Y.
Mayne, Mr. and Mrs. Wiley E. (Elizabeth), Sioux City, Iowa.
Mead, Mr. and Mrs. Joseph S. (LaVonia), Birmingham, Ala., and sons Scott and George.
Mechan, Mr. and Mrs. George N. (Ada), Omaha, Neb.
Merrick, Mrs. Madge, New York, N. Y.
Miller, H. Ellsworth, Baltimore, Md.
Miller, Mr. and Mrs. Orrin (Margaret Alice), Dallas, Tex.
Mills, Mrs. Ruth and daughter Ruthie, Greenville, S. C.
Mitchell, George L., London, Canada.
Mock, Mr. and Mrs. Fred M. (Berenice), Oklahoma City, Okla.
Moeller, Mr. and Mrs. Frederick A. (Isabel), Boston, Mass.
Monroe, Mr. and Mrs. Donald H. (Mary), daughter Mary and son Donald, Jr., Elmira, N. Y.
Montgomery, Mr. and Mrs. Richard B., Jr. (Ella), New Orleans, La.
Moody, Mr. and Mrs. L. Denman (Ted), and daughters Teddy and Bebe, Houston, Tex.
Moore, Mrs. P. R., Bristol, Va.
Morris, Mr. and Mrs. Larry W. (Camille), Houston, Tex.
Morris, Mr. and Mrs. Stanley C. (Leota), and son Stan, Charleston, West Va.
Morrison, Mr. and Mrs. George M. (Louise), New York, N. Y.
Moss, Mr. and Mrs. Sidney A. (May), Los Angeles, Calif.
Mungall, Mr. and Mrs. Daniel (Katherine), Rosemont, Pa.
Murphy, Mr. and Mrs. John (Gerd), Kansas City, Mo.
Murphy, Mr. and Mrs. Joseph B. (Ruth), Syracuse, N. Y.
Murphy, Mr. and Mrs. Ray (Edith), New York, N. Y.
Murphy, Mr. and Mrs. Warren (Jean), Syracuse, N. Y.
Muse, Mr. and Mrs. Leonard G. (Page), and daughter Martha, Roanoke, Va.
Musgrave, Mr. and Mrs. Edgar (Jean), Des Moines, Iowa.
McCahan, Mr. and Mrs. Elmer B., Jr. (Mildred), Baltimore, Md.
McCord, Mr. and Mrs. Sidney P., Jr. (Annetta), and son Perry, Camden, N. J.
McDonald, Mr. and Mrs. W. Percy, Jr., (Jodie), Memphis, Tenn.
McDonald, W. Percy, Sr., Memphis, Tenn.
McGough, Paul J. and daughter Patsy, Minneapolis, Minn.
McInerney, Mr. and Mrs. Wilbert (Rosa), Washington, D. C.
McLaughlin, Mr. and Mrs. Edward F. (Elizabeth), Syracuse, N. Y.
McNeal, Harley J., Cleveland, Ohio.
McPharlin, Mr. and Mrs. Eldon V. (Margaret), Los Angeles, Calif.

Nelson, Pat, Columbia, S. C.
Nelson, Mr. and Mrs. Robert M. (Marjorie), Memphis, Tenn.
Nigh, Warren, Washington, D. C.
Night, Mr. and Mrs. William E. (Elizabeth), Binghamton, N. Y.
Nixon, Mr. and Mrs. David S. (Kathleen), and son Dave, Jr., Hartford, Conn.
Noone, Mr. and Mrs. Charles A. (Jessie), Chattanooga, Tenn.
Norton, Judy and Erle (grandchildren of Erle B. Askew), St. Petersburg, Fla.
Norton, Mr. and Mrs. Wilbert H. (Pattie), Huntington, West Va.

O'Brien, Mr. and Mrs. Joseph F. (Sue), Brooklyn, N. Y.
O'Bryan, Mr. and Mrs. William M. (Jeane), Fort Lauderdale, Fla.
O'Hara, James M., Utica, N. Y.

O'Kelley, Mr. and Mrs. A. Frank (Louise), and daughter Ease, Tallahassee, Fla.
O'Mara, Mr. and Mrs. Junior (Mary Jane), Jackson, Miss.
Orlando, Mr. and Mrs. Samuel P. (Elsie), and son Michael, Camden, N. J.
Orr, Mr. and Mrs. Alexander, Jr. (Lois), New York, N. Y.
Orr, Mr. and Mrs. George W. (Connors), New York, N. Y.
O'Shea, James C., Rome, N. Y.

Parcher, Fred, Columbus, Ohio.
Park, Mr. and Mrs. Arthur (Catherine), San Francisco, Calif.
Parker, Mr. and Mrs. Leo B. (Cecile), Kansas City, Mo.
Perry, Bennett H., Henderson, N. C.
Peterson, Mr. and Mrs. Abe R. (Elizabeth), and daughter Jane, Chicago, Ill.
Pfau, Mr. and Mrs. William E., Jr. (Dorothy), Youngstown, Ohio.
Phelan, Mr. and Mrs. Roderick Gerard (Eleanor), Toronto, Canada.
Phelan, Mr. and Mrs. Thomas N. (Ray), Toronto, Canada.
Phillips, Mr. and Mrs. Thomas M. (Edna), Houston, Tex.
Pledger, Mr. and Mrs. Charles E., Jr. (Beryle), Washington, D. C.
Plunkett, Mr. and Mrs. Robert E. (Anne), Detroit, Mich.
Powell, Junius L., New York, N. Y.
Powers, Samuel J., Jr., Miami, Fla.
Prendergast, Mr. and Mrs. J. Gilbert (Helen), Baltimore, Md.
Price, Mr. and Mrs. Paul E. (Kathryn), Chicago, Ill.
Priest, Mr. and Mrs. Benjamin B. (Constance), Boston, Mass.
Py, Mr. and Mrs. John R. (Miriam), Sandusky, Ohio.
Randall, Mr. and Mrs. John D. (Margaret), and daughters Margaret, Sue and son John, Cedar Rapids, Iowa.
Raub, Mr. and Mrs. Edward B. (Madeline), Indianapolis, Ind.
Ray, Mr. and Mrs. John D. (Ruth) and daughter Emily, Beaver, Pa.
Reagan, Mr. and Mrs. Franklin E. (Helen), and daughter Ann, St. Louis, Mo.
Reeves, Mr. and Mrs. G. L. (Katheryn), Tampa, Fla.
Reif, Mr. and Mrs. Ernest C. (Bernice), Pittsburgh, Pa.
Reynolds, Hugh E., Indianapolis, Ind.
Ringel, Herbert A., Atlanta, Ga.
Robb, Mr. and Mrs. Maugridge S. (Gertrude), and daughter Elizabeth, Minneapolis, Minn.
Rogoski, Mr. and Mrs. Alexis J. (Loretta), Muskegon, Mich.
Rogoski, Mr. and Mrs. R. Bunker (Dorothy), Muskegon, Mich.
Rollins, Mr. and Mrs. H. Beale (Mary), Baltimore, Md.
Rowe, Mr. and Mrs. Royce G. (Marie), and daughter Mary, Chicago, Ill.
Royster, Mr. and Mrs. John H. (Helen), and daughters Jean and Nancy, Peoria, Ill.
Rudolph, Mr. and Mrs. Harold W. (Phyllis), and daughter Stella, New York, N. Y.
Runkle, Mr. and Mrs. Clarence B. (Mormie), Los Angeles, Calif.
Ryan, Mr. and Mrs. Charles F. (Mary), Rutland, Vt.

Sadler, Mr. and Mrs. W. H., Jr. (Rose), Birmingham, Ala.
Salinsky, Mr. and Mrs. Ben E. (Roselyn), Sheboygan, Wis.
Savard, Mr. and Mrs. Jules (Louise), Quebec City, Canada.
Schell, Mr. and Mrs. Walter O. (Bibian), Los Angeles, Calif.
Schlotthauer, George McD. (Elizabeth), and daughter Barbara Jane and son George, Madison, Wis.
Schneider, Philip J., Cincinnati, Ohio.
Scholtka, Marion E., Milwaukee, Wis.
Schroeder, Mr. and Mrs. Edward H. (Mildred), and daughter Carol and son Robert, Chicago, Ill.
Sedgwick, Wallace E., San Francisco, Calif.
Sessions, Mr. and Mrs. Cicero C. (Phyllis), New Orleans, La.
Shackleford, Mr. and Mrs. Robert (Iva), Tampa, Fla.
Shannon, Mr. and Mrs. George T. (Tommie), Tampa, Fla.
Smith, Mr. and Mrs. Forrest S. (Harriet), Jersey City, N. J.
Smith, Mr. and Mrs. Forrest Stuart (Virginia), Richmond, Va.
Smith, Dr. Hubert Winston, Austin, Tex.
Smith, J. Kirby, Dallas, Tex.
Smith, Mr. and Mrs. William P. (Elizabeth), Chicago, Ill.
Snow, Mr. and Mrs. Charles B. (Dorothy), Jackson, Miss.
Snow, Mr. and Mrs. Gordon H. (Dorothy), and son Gordon, Los Angeles, Calif.
Spray, Mr. and Mrs. Joseph A. (Loeta), Los Angeles, Calif.

Sprinkle, Mr. and Mrs. Paul C. (Mary), Kansas City, Mo.
Stant, Mr. and Mrs. Donald T. (Mary), and daughter Anna, Bristol, Va.
Starrett, Mr. and Mrs. Howard D. (Pat), Buffalo, N. Y.
Stephens, Mr. and Mrs. Oscar A. (Alice), Youngstown, Ohio.
Stewart, Mr. and Mrs. Joseph R. (Edna), Kansas City, Mo.
Stichter, Mr. and Mrs. Wayne E. (Irene), Toledo, Ohio.
Stockwell, Mr. and Mrs. Oliver P. (Roseina), and daughter Angell, Lake Charles, La.
Stratton, Hubert C. and son David, Syracuse, N. Y.
Sugarman, Mr. and Mrs. David B. (Golda), Syracuse, N. Y.
Sullivan, Mr. and Mrs. Thomas W. (Janet), Rochester, N. Y.
Sutton, Mr. and Mrs. John F., Jr. (Nancy), San Angelo, Tex.
Sweitzer, Mr. and Mrs. J. Mearl (Margaret) and daughter Mary, Wausau, Wis.

Taylor, Mr. and Mrs. Edward I. (Florence), Hartford, Conn.
Taylor, Mr. and Mrs. Lowell W. (Gertrude), and son Jere, Memphis, Tenn.
Teale, Alton W., Suffern, N. Y.
Terwilliger, Herbert, Wausau, Wis.
Thomas, Adelbert W., Cleveland, Ohio.
Thomas, Mr. and Mrs. Henry R. (Lurline), Los Angeles, Calif.
Thornbury, Mr. and Mrs. P. L. (Gertrude), Columbus, Ohio.
Tilson, Mr. and Mrs. Elber H. (Gratia), Los Angeles, Calif.
Topping, Mr. and Mrs. Price H. (Barbara), New York, N. Y.
Townsend, Mark, Jr., Jersey City, N. J.
Tressler, Mr. and Mrs. David L. (Jessie), Chicago, Ill.
Tucker, Warren C., Utica, N. Y.
Turner, Mr. and Mrs. Mark N. (Anna), Buffalo, N. Y.

Ughetta, Mr. and Mrs. Casper B. (Frieda), New York, N. Y.

Van Alsburg, Donald J., Detroit, Mich.
Van Orman, Mr. and Mrs. Francis (Elizabeth), Newark, N. J.
Varnum, Laurent K., Grand Rapids, Mich.
Vaughan, Mr. and Mrs. Vance V. (Betty), Brentwood, Md.
Veatch, Mr. and Mrs. Wayne (Miriam), Los Angeles, Calif.
Vogel, Mr. and Mrs. Robert C. (Esther), Chicago, Ill.

Waechter, Mr. and Mrs. Arthur J., Jr. (Peggy), New Orleans, La.
Wagner, Mr. and Mrs. Paul (Norma), East St. Louis, Ill.
Walsh, Mr. and Mrs. William G. (Frances), New York, N. Y.
Ward, Charles S., Washington, D. C.
Wassell, Thomas W., Dallas, Tex.
Webster, Luther Ira, Rochester, N. Y.
Weller, Mr. and Mrs. H. Gayle (Jane), Denver, Colo.
Wells, Mr. and Mrs. Erskine W. (Nell), Jackson, Miss.
Wells, Mr. and Mrs. Troward G. (Flora), Philadelphia, Pa.
Weston, Mr. and Mrs. S. Burns (Simone), Cleveland, Ohio.
Wehl, Mr. and Mrs. Kenneth C. (Audrey), Duluth, Minn.
Whaley, Thomas B., Columbia, S. C.
Whitaker, Mr. and Mrs. R. A. (Eoline), Kinston, N. C.
White, J. Olin, Nashville, Tenn.
White, Mr. and Mrs. Jacob S. (Emily), Indianapolis, Ind.
White, Mr. and Mrs. Lowell (Laura-Louise), Denver, Colo.
White, Morris E., Tampa, Fla.
Wicker, John J., Jr., Richmond, Va.
Williams, Mr. and Mrs. Marvin, Jr., (Elsie), Birmingham, Ala.
Williams, Mr. and Mrs. Reginald L. (Helen), Miami, Fla.
Wilson, Mr. and Mrs. R. A. (Blanche), and daughter Molly Lou, Amarillo, Tex.
Worthington, Mr. and Mrs. William F. (Jane), San Francisco, Calif.
Wright, Mr. and Mrs. Clyde H. (Mary), Canton, Ohio.

Yancey, Mr. and Mrs. George W. (Martha), Birmingham, Ala.
Young, Mr. and Mrs. Frank M. (Helen), Birmingham, Ala.
Young, Mr. and Mrs. Robert F. (Kathryn), Dayton, Ohio.

Zurett, Melvin H., Rochester, N. Y.